

TAXATION OF SHORT-TERM LODGING

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill addresses the taxation of short-term lodging.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the transactions related to short-term lodging that are subject to state and local sales and use taxes;
- ▶ addresses sales and use tax exemptions related to short-term lodging;
- ▶ addresses the remittance of sales and use taxes related to short-term lodging; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

59-12-102 (Superseded 07/01/14), as last amended by Laws of Utah 2012, Chapters 255, 312, 405, and 410

59-12-102 (Effective 07/01/14), as last amended by Laws of Utah 2012, Chapters 255, 312, 405, 410, and 424



28 **59-12-103 (Superseded 07/01/14)**, as last amended by Laws of Utah 2012, Chapters
29 207, 212, 254, and 255

30 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2012, Chapters 207,
31 212, 254, 255, and 424

32 **59-12-104**, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

33 **59-12-104.2**, as last amended by Laws of Utah 2009, Chapter 203

34 **59-12-104.6**, as enacted by Laws of Utah 2011, Chapter 288

35 **59-12-107**, as last amended by Laws of Utah 2012, Chapters 178, 312, and 399

36 **59-12-107.1**, as last amended by Laws of Utah 2008, Chapters 382 and 384

37 **59-12-301**, as last amended by Laws of Utah 2012, Chapter 369

38 **59-12-352**, as last amended by Laws of Utah 2009, Chapter 92

39 **59-12-353**, as last amended by Laws of Utah 2004, Chapters 156 and 255

40 **59-12-603**, as last amended by Laws of Utah 2011, Chapter 309

41

42 *Be it enacted by the Legislature of the state of Utah:*

43 Section 1. Section **59-12-102 (Superseded 07/01/14)** is amended to read:

44 **59-12-102 (Superseded 07/01/14). Definitions.**

45 As used in this chapter:

46 (1) "800 service" means a telecommunications service that:

47 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and

48 (b) is typically marketed:

49 (i) under the name 800 toll-free calling;

50 (ii) under the name 855 toll-free calling;

51 (iii) under the name 866 toll-free calling;

52 (iv) under the name 877 toll-free calling;

53 (v) under the name 888 toll-free calling; or

54 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the

55 Federal Communications Commission.

56 (2) (a) "900 service" means an inbound toll telecommunications service that:

57 (i) a subscriber purchases;

58 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to

59 the subscriber's:

60 (A) prerecorded announcement; or

61 (B) live service; and

62 (iii) is typically marketed:

63 (A) under the name 900 service; or

64 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal

65 Communications Commission.

66 (b) "900 service" does not include a charge for:

67 (i) a collection service a seller of a telecommunications service provides to a
68 subscriber; or

69 (ii) the following a subscriber sells to the subscriber's customer:

70 (A) a product; or

71 (B) a service.

72 (3) (a) "Admission or user fees" includes season passes.

73 (b) "Admission or user fees" does not include annual membership dues to private
74 organizations.

75 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
76 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
77 Agreement after November 12, 2002.

78 (5) "Agreement combined tax rate" means the sum of the tax rates:

79 (a) listed under Subsection (6); and

80 (b) that are imposed within a local taxing jurisdiction.

81 (6) "Agreement sales and use tax" means a tax imposed under:

82 (a) Subsection 59-12-103(2)(a)(i)(A);

83 (b) Subsection 59-12-103(2)(b)(i);

84 (c) Subsection 59-12-103(2)(c)(i);

85 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

86 (e) Section 59-12-204;

87 (f) Section 59-12-401;

88 (g) Section 59-12-402;

89 (h) Section 59-12-703;

- 90 (i) Section 59-12-802;
- 91 (j) Section 59-12-804;
- 92 (k) Section 59-12-1102;
- 93 (l) Section 59-12-1302;
- 94 (m) Section 59-12-1402;
- 95 (n) Section 59-12-1802;
- 96 (o) Section 59-12-2003;
- 97 (p) Section 59-12-2103;
- 98 (q) Section 59-12-2213;
- 99 (r) Section 59-12-2214;
- 100 (s) Section 59-12-2215;
- 101 (t) Section 59-12-2216;
- 102 (u) Section 59-12-2217; or
- 103 (v) Section 59-12-2218.
- 104 (7) "Aircraft" is as defined in Section 72-10-102.
- 105 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 106 (a) except for:
- 107 (i) an airline as defined in Section 59-2-102; or
- 108 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 109 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 110 state, of an airline; and
- 111 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 112 whether the business entity performs the following in this state:
- 113 (i) check, diagnose, overhaul, and repair:
- 114 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 115 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 116 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 117 engine;
- 118 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 119 aircraft:
- 120 (A) an inspection;

- 121 (B) a repair, including a structural repair or modification;
- 122 (C) changing landing gear; and
- 123 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 124 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 125 completely apply new paint to the fixed wing turbine powered aircraft; and
- 126 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 127 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 128 authority that certifies the fixed wing turbine powered aircraft.
- 129 (9) "Alcoholic beverage" means a beverage that:
- 130 (a) is suitable for human consumption; and
- 131 (b) contains .5% or more alcohol by volume.
- 132 (10) "Alternative energy" means:
- 133 (a) biomass energy;
- 134 (b) geothermal energy;
- 135 (c) hydroelectric energy;
- 136 (d) solar energy;
- 137 (e) wind energy; or
- 138 (f) energy that is derived from:
- 139 (i) coal-to-liquids;
- 140 (ii) nuclear fuel;
- 141 (iii) oil-impregnated diatomaceous earth;
- 142 (iv) oil sands;
- 143 (v) oil shale; or
- 144 (vi) petroleum coke.
- 145 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 146 facility" means a facility that:
- 147 (i) uses alternative energy to produce electricity; and
- 148 (ii) has a production capacity of 2 megawatts or greater.
- 149 (b) A facility is an alternative energy electricity production facility regardless of
- 150 whether the facility is:
- 151 (i) connected to an electric grid; or

152 (ii) located on the premises of an electricity consumer.

153 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
154 provision of telecommunications service.

155 (b) "Ancillary service" includes:

156 (i) a conference bridging service;

157 (ii) a detailed communications billing service;

158 (iii) directory assistance;

159 (iv) a vertical service; or

160 (v) a voice mail service.

161 (13) "Area agency on aging" is as defined in Section 62A-3-101.

162 (14) "Assisted amusement device" means an amusement device, skill device, or ride
163 device that is started and stopped by an individual:

164 (a) who is not the purchaser or renter of the right to use or operate the amusement
165 device, skill device, or ride device; and

166 (b) at the direction of the seller of the right to use the amusement device, skill device,
167 or ride device.

168 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
169 washing of tangible personal property if the cleaning or washing labor is primarily performed
170 by an individual:

171 (a) who is not the purchaser of the cleaning or washing of the tangible personal
172 property; and

173 (b) at the direction of the seller of the cleaning or washing of the tangible personal
174 property.

175 (16) "Authorized carrier" means:

176 (a) in the case of vehicles operated over public highways, the holder of credentials
177 indicating that the vehicle is or will be operated pursuant to both the International Registration
178 Plan and the International Fuel Tax Agreement;

179 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
180 certificate or air carrier's operating certificate; or

181 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
182 stock, the holder of a certificate issued by the United States Surface Transportation Board.

183 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
184 following that is used as the primary source of energy to produce fuel or electricity:

- 185 (i) material from a plant or tree; or
- 186 (ii) other organic matter that is available on a renewable basis, including:
 - 187 (A) slash and brush from forests and woodlands;
 - 188 (B) animal waste;
 - 189 (C) methane produced:
 - 190 (I) at landfills; or
 - 191 (II) as a byproduct of the treatment of wastewater residuals;
 - 192 (D) aquatic plants; and
 - 193 (E) agricultural products.

194 (b) "Biomass energy" does not include:

- 195 (i) black liquor;
- 196 (ii) treated woods; or
- 197 (iii) biomass from municipal solid waste other than methane produced:
 - 198 (A) at landfills; or
 - 199 (B) as a byproduct of the treatment of wastewater residuals.

200 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
201 property, products, or services if the tangible personal property, products, or services are:

- 202 (i) distinct and identifiable; and
- 203 (ii) sold for one nonitemized price.

204 (b) "Bundled transaction" does not include:

205 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
206 the basis of the selection by the purchaser of the items of tangible personal property included in
207 the transaction;

- 208 (ii) the sale of real property;
- 209 (iii) the sale of services to real property;
- 210 (iv) the retail sale of tangible personal property and a service if:
 - 211 (A) the tangible personal property:
 - 212 (I) is essential to the use of the service; and
 - 213 (II) is provided exclusively in connection with the service; and

- 214 (B) the service is the true object of the transaction;
- 215 (v) the retail sale of two services if:
 - 216 (A) one service is provided that is essential to the use or receipt of a second service;
 - 217 (B) the first service is provided exclusively in connection with the second service; and
 - 218 (C) the second service is the true object of the transaction;
- 219 (vi) a transaction that includes tangible personal property or a product subject to
- 220 taxation under this chapter and tangible personal property or a product that is not subject to
- 221 taxation under this chapter if the:
 - 222 (A) seller's purchase price of the tangible personal property or product subject to
 - 223 taxation under this chapter is de minimis; or
 - 224 (B) seller's sales price of the tangible personal property or product subject to taxation
 - 225 under this chapter is de minimis; and
 - 226 (vii) the retail sale of tangible personal property that is not subject to taxation under
 - 227 this chapter and tangible personal property that is subject to taxation under this chapter if:
 - 228 (A) that retail sale includes:
 - 229 (I) food and food ingredients;
 - 230 (II) a drug;
 - 231 (III) durable medical equipment;
 - 232 (IV) mobility enhancing equipment;
 - 233 (V) an over-the-counter drug;
 - 234 (VI) a prosthetic device; or
 - 235 (VII) a medical supply; and
 - 236 (B) subject to Subsection (18)(f):
 - 237 (I) the seller's purchase price of the tangible personal property subject to taxation under
 - 238 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
 - 239 (II) the seller's sales price of the tangible personal property subject to taxation under
 - 240 this chapter is 50% or less of the seller's total sales price of that retail sale.
 - 241 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
 - 242 service that is distinct and identifiable does not include:
 - 243 (A) packaging that:
 - 244 (I) accompanies the sale of the tangible personal property, product, or service; and

245 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
246 service;

247 (B) tangible personal property, a product, or a service provided free of charge with the
248 purchase of another item of tangible personal property, a product, or a service; or

249 (C) an item of tangible personal property, a product, or a service included in the
250 definition of "purchase price."

251 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
252 product, or a service is provided free of charge with the purchase of another item of tangible
253 personal property, a product, or a service if the sales price of the purchased item of tangible
254 personal property, product, or service does not vary depending on the inclusion of the tangible
255 personal property, product, or service provided free of charge.

256 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
257 does not include a price that is separately identified by tangible personal property, product, or
258 service on the following, regardless of whether the following is in paper format or electronic
259 format:

260 (A) a binding sales document; or

261 (B) another supporting sales-related document that is available to a purchaser.

262 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
263 supporting sales-related document that is available to a purchaser includes:

264 (A) a bill of sale;

265 (B) a contract;

266 (C) an invoice;

267 (D) a lease agreement;

268 (E) a periodic notice of rates and services;

269 (F) a price list;

270 (G) a rate card;

271 (H) a receipt; or

272 (I) a service agreement.

273 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
274 property or a product subject to taxation under this chapter is de minimis if:

275 (A) the seller's purchase price of the tangible personal property or product is 10% or

276 less of the seller's total purchase price of the bundled transaction; or

277 (B) the seller's sales price of the tangible personal property or product is 10% or less of
278 the seller's total sales price of the bundled transaction.

279 (ii) For purposes of Subsection (18)(b)(vi), a seller:

280 (A) shall use the seller's purchase price or the seller's sales price to determine if the
281 purchase price or sales price of the tangible personal property or product subject to taxation
282 under this chapter is de minimis; and

283 (B) may not use a combination of the seller's purchase price and the seller's sales price
284 to determine if the purchase price or sales price of the tangible personal property or product
285 subject to taxation under this chapter is de minimis.

286 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
287 contract to determine if the sales price of tangible personal property or a product is de minimis.

288 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
289 the seller's purchase price and the seller's sales price to determine if tangible personal property
290 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales
291 price of that retail sale.

292 (19) "Certified automated system" means software certified by the governing board of
293 the agreement that:

294 (a) calculates the agreement sales and use tax imposed within a local taxing
295 jurisdiction:

296 (i) on a transaction; and

297 (ii) in the states that are members of the agreement;

298 (b) determines the amount of agreement sales and use tax to remit to a state that is a
299 member of the agreement; and

300 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

301 (20) "Certified service provider" means an agent certified:

302 (a) by the governing board of the agreement; and

303 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
304 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
305 own purchases.

306 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel

307 suitable for general use.

308 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
309 commission shall make rules:

310 (i) listing the items that constitute "clothing"; and

311 (ii) that are consistent with the list of items that constitute "clothing" under the
312 agreement.

313 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

314 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
315 fuels that does not constitute industrial use under Subsection (51) or residential use under
316 Subsection (101).

317 (24) (a) "Common carrier" means a person engaged in or transacting the business of
318 transporting passengers, freight, merchandise, or other property for hire within this state.

319 (b) (i) "Common carrier" does not include a person who, at the time the person is
320 traveling to or from that person's place of employment, transports a passenger to or from the
321 passenger's place of employment.

322 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
323 Utah Administrative Rulemaking Act, the commission may make rules defining what
324 constitutes a person's place of employment.

325 (25) "Component part" includes:

326 (a) poultry, dairy, and other livestock feed, and their components;

327 (b) baling ties and twine used in the baling of hay and straw;

328 (c) fuel used for providing temperature control of orchards and commercial
329 greenhouses doing a majority of their business in wholesale sales, and for providing power for
330 off-highway type farm machinery; and

331 (d) feed, seeds, and seedlings.

332 (26) "Computer" means an electronic device that accepts information:

333 (a) (i) in digital form; or

334 (ii) in a form similar to digital form; and

335 (b) manipulates that information for a result based on a sequence of instructions.

336 (27) "Computer software" means a set of coded instructions designed to cause:

337 (a) a computer to perform a task; or

338 (b) automatic data processing equipment to perform a task.

339 (28) "Computer software maintenance contract" means a contract that obligates a seller
340 of computer software to provide a customer with:

341 (a) future updates or upgrades to computer software;

342 (b) support services with respect to computer software; or

343 (c) a combination of Subsections (28)(a) and (b).

344 (29) (a) "Conference bridging service" means an ancillary service that links two or
345 more participants of an audio conference call or video conference call.

346 (b) "Conference bridging service" may include providing a telephone number as part of
347 the ancillary service described in Subsection (29)(a).

348 (c) "Conference bridging service" does not include a telecommunications service used
349 to reach the ancillary service described in Subsection (29)(a).

350 (30) "Construction materials" means any tangible personal property that will be
351 converted into real property.

352 (31) "Delivered electronically" means delivered to a purchaser by means other than
353 tangible storage media.

354 (32) (a) "Delivery charge" means a charge:

355 (i) by a seller of:

356 (A) tangible personal property;

357 (B) a product transferred electronically; or

358 (C) services; and

359 (ii) for preparation and delivery of the tangible personal property, product transferred
360 electronically, or services described in Subsection (32)(a)(i) to a location designated by the
361 purchaser.

362 (b) "Delivery charge" includes a charge for the following:

363 (i) transportation;

364 (ii) shipping;

365 (iii) postage;

366 (iv) handling;

367 (v) crating; or

368 (vi) packing.

369 (33) "Detailed telecommunications billing service" means an ancillary service of
370 separately stating information pertaining to individual calls on a customer's billing statement.

371 (34) "Dietary supplement" means a product, other than tobacco, that:

372 (a) is intended to supplement the diet;

373 (b) contains one or more of the following dietary ingredients:

374 (i) a vitamin;

375 (ii) a mineral;

376 (iii) an herb or other botanical;

377 (iv) an amino acid;

378 (v) a dietary substance for use by humans to supplement the diet by increasing the total
379 dietary intake; or

380 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
381 described in Subsections (34)(b)(i) through (v);

382 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

383 (A) tablet form;

384 (B) capsule form;

385 (C) powder form;

386 (D) softgel form;

387 (E) gelcap form; or

388 (F) liquid form; or

389 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
390 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:

391 (A) as conventional food; and

392 (B) for use as a sole item of:

393 (I) a meal; or

394 (II) the diet; and

395 (d) is required to be labeled as a dietary supplement:

396 (i) identifiable by the "Supplemental Facts" box found on the label; and

397 (ii) as required by 21 C.F.R. Sec. 101.36.

398 (35) (a) "Direct mail" means printed material delivered or distributed by United States
399 mail or other delivery service:

- 400 (i) to:
- 401 (A) a mass audience; or
- 402 (B) addressees on a mailing list provided:
- 403 (I) by a purchaser of the mailing list; or
- 404 (II) at the discretion of the purchaser of the mailing list; and
- 405 (ii) if the cost of the printed material is not billed directly to the recipients.
- 406 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 407 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 408 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 409 single address.
- 410 (36) "Directory assistance" means an ancillary service of providing:
- 411 (a) address information; or
- 412 (b) telephone number information.
- 413 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 414 or supplies that:
- 415 (i) cannot withstand repeated use; and
- 416 (ii) are purchased by, for, or on behalf of a person other than:
- 417 (A) a health care facility as defined in Section 26-21-2;
- 418 (B) a health care provider as defined in Section 78B-3-403;
- 419 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
- 420 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 421 (b) "Disposable home medical equipment or supplies" does not include:
- 422 (i) a drug;
- 423 (ii) durable medical equipment;
- 424 (iii) a hearing aid;
- 425 (iv) a hearing aid accessory;
- 426 (v) mobility enhancing equipment; or
- 427 (vi) tangible personal property used to correct impaired vision, including:
- 428 (A) eyeglasses; or
- 429 (B) contact lenses.
- 430 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

431 commission may by rule define what constitutes medical equipment or supplies.

432 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
433 compound, substance, or preparation that is:

434 (i) recognized in:

435 (A) the official United States Pharmacopoeia;

436 (B) the official Homeopathic Pharmacopoeia of the United States;

437 (C) the official National Formulary; or

438 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);

439 (ii) intended for use in the:

440 (A) diagnosis of disease;

441 (B) cure of disease;

442 (C) mitigation of disease;

443 (D) treatment of disease; or

444 (E) prevention of disease; or

445 (iii) intended to affect:

446 (A) the structure of the body; or

447 (B) any function of the body.

448 (b) "Drug" does not include:

449 (i) food and food ingredients;

450 (ii) a dietary supplement;

451 (iii) an alcoholic beverage; or

452 (iv) a prosthetic device.

453 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
454 equipment that:

455 (i) can withstand repeated use;

456 (ii) is primarily and customarily used to serve a medical purpose;

457 (iii) generally is not useful to a person in the absence of illness or injury; and

458 (iv) is not worn in or on the body.

459 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
460 equipment described in Subsection (39)(a).

461 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include

462 mobility enhancing equipment.

463 (40) "Electronic" means:

464 (a) relating to technology; and

465 (b) having:

466 (i) electrical capabilities;

467 (ii) digital capabilities;

468 (iii) magnetic capabilities;

469 (iv) wireless capabilities;

470 (v) optical capabilities;

471 (vi) electromagnetic capabilities; or

472 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).

473 (41) "Employee" is as defined in Section 59-10-401.

474 (42) "Fixed guideway" means a public transit facility that uses and occupies:

475 (a) rail for the use of public transit; or

476 (b) a separate right-of-way for the use of public transit.

477 (43) "Fixed wing turbine powered aircraft" means an aircraft that:

478 (a) is powered by turbine engines;

479 (b) operates on jet fuel; and

480 (c) has wings that are permanently attached to the fuselage of the aircraft.

481 (44) "Fixed wireless service" means a telecommunications service that provides radio

482 communication between fixed points.

483 (45) (a) "Food and food ingredients" means substances:

484 (i) regardless of whether the substances are in:

485 (A) liquid form;

486 (B) concentrated form;

487 (C) solid form;

488 (D) frozen form;

489 (E) dried form; or

490 (F) dehydrated form; and

491 (ii) that are:

492 (A) sold for:

- 493 (I) ingestion by humans; or
- 494 (II) chewing by humans; and
- 495 (B) consumed for the substance's:
- 496 (I) taste; or
- 497 (II) nutritional value.
- 498 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 499 (c) "Food and food ingredients" does not include:
- 500 (i) an alcoholic beverage;
- 501 (ii) tobacco; or
- 502 (iii) prepared food.
- 503 (46) (a) "Fundraising sales" means sales:
- 504 (i) (A) made by a school; or
- 505 (B) made by a school student;
- 506 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 507 materials, or provide transportation; and
- 508 (iii) that are part of an officially sanctioned school activity.
- 509 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"
- 510 means a school activity:
- 511 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 512 district governing the authorization and supervision of fundraising activities;
- 513 (ii) that does not directly or indirectly compensate an individual teacher or other
- 514 educational personnel by direct payment, commissions, or payment in kind; and
- 515 (iii) the net or gross revenues from which are deposited in a dedicated account
- 516 controlled by the school or school district.
- 517 (47) "Geothermal energy" means energy contained in heat that continuously flows
- 518 outward from the earth that is used as the sole source of energy to produce electricity.
- 519 (48) "Governing board of the agreement" means the governing board of the agreement
- 520 that is:
- 521 (a) authorized to administer the agreement; and
- 522 (b) established in accordance with the agreement.
- 523 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

524 (i) the executive branch of the state, including all departments, institutions, boards,
525 divisions, bureaus, offices, commissions, and committees;

526 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
527 Office of the Court Administrator, and similar administrative units in the judicial branch;

528 (iii) the legislative branch of the state, including the House of Representatives, the
529 Senate, the Legislative Printing Office, the Office of Legislative Research and General
530 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
531 Analyst;

532 (iv) the National Guard;

533 (v) an independent entity as defined in Section 63E-1-102; or

534 (vi) a political subdivision as defined in Section 17B-1-102.

535 (b) "Governmental entity" does not include the state systems of public and higher
536 education, including:

537 (i) a college campus of the Utah College of Applied Technology;

538 (ii) a school;

539 (iii) the State Board of Education;

540 (iv) the State Board of Regents; or

541 (v) an institution of higher education.

542 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
543 electricity.

544 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
545 other fuels:

546 (a) in mining or extraction of minerals;

547 (b) in agricultural operations to produce an agricultural product up to the time of
548 harvest or placing the agricultural product into a storage facility, including:

549 (i) commercial greenhouses;

550 (ii) irrigation pumps;

551 (iii) farm machinery;

552 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
553 registered under Title 41, Chapter 1a, Part 2, Registration; and

554 (v) other farming activities;

555 (c) in manufacturing tangible personal property at an establishment described in SIC
556 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
557 Executive Office of the President, Office of Management and Budget;

558 (d) by a scrap recycler if:

559 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
560 one or more of the following items into prepared grades of processed materials for use in new
561 products:

562 (A) iron;

563 (B) steel;

564 (C) nonferrous metal;

565 (D) paper;

566 (E) glass;

567 (F) plastic;

568 (G) textile; or

569 (H) rubber; and

570 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
571 nonrecycled materials; or

572 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
573 cogeneration facility as defined in Section 54-2-1.

574 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
575 for installing:

576 (i) tangible personal property; or

577 (ii) a product transferred electronically.

578 (b) "Installation charge" does not include a charge for:

579 (i) repairs or renovations of:

580 (A) tangible personal property; or

581 (B) a product transferred electronically; or

582 (ii) attaching tangible personal property or a product transferred electronically:

583 (A) to other tangible personal property; and

584 (B) as part of a manufacturing or fabrication process.

585 (53) "Institution of higher education" means an institution of higher education listed in

586 Section 53B-2-101.

587 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
588 personal property or a product transferred electronically for:

589 (i) (A) a fixed term; or

590 (B) an indeterminate term; and

591 (ii) consideration.

592 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
593 amount of consideration may be increased or decreased by reference to the amount realized
594 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
595 Code.

596 (c) "Lease" or "rental" does not include:

597 (i) a transfer of possession or control of property under a security agreement or
598 deferred payment plan that requires the transfer of title upon completion of the required
599 payments;

600 (ii) a transfer of possession or control of property under an agreement that requires the
601 transfer of title:

602 (A) upon completion of required payments; and

603 (B) if the payment of an option price does not exceed the greater of:

604 (I) \$100; or

605 (II) 1% of the total required payments; or

606 (iii) providing tangible personal property along with an operator for a fixed period of
607 time or an indeterminate period of time if the operator is necessary for equipment to perform as
608 designed.

609 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to
610 perform as designed if the operator's duties exceed the:

611 (i) set-up of tangible personal property;

612 (ii) maintenance of tangible personal property; or

613 (iii) inspection of tangible personal property.

614 (55) "Life science establishment" means an establishment in this state that is classified
615 under the following NAICS codes of the 2007 North American Industry Classification System
616 of the federal Executive Office of the President, Office of Management and Budget:

- 617 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
- 618 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus
- 619 Manufacturing; or
- 620 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
- 621 (56) "Life science research and development facility" means a facility owned, leased,
- 622 or rented by a life science establishment if research and development is performed in 51% or
- 623 more of the total area of the facility.
- 624 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media
- 625 if the tangible storage media is not physically transferred to the purchaser.
- 626 (58) "Local taxing jurisdiction" means a:
- 627 (a) county that is authorized to impose an agreement sales and use tax;
- 628 (b) city that is authorized to impose an agreement sales and use tax; or
- 629 (c) town that is authorized to impose an agreement sales and use tax.
- 630 (59) "Manufactured home" is as defined in Section 15A-1-302.
- 631 (60) For purposes of Section 59-12-104, "manufacturing facility" means:
- 632 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
- 633 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 634 Management and Budget;
- 635 (b) a scrap recycler if:
- 636 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 637 one or more of the following items into prepared grades of processed materials for use in new
- 638 products:
- 639 (A) iron;
- 640 (B) steel;
- 641 (C) nonferrous metal;
- 642 (D) paper;
- 643 (E) glass;
- 644 (F) plastic;
- 645 (G) textile; or
- 646 (H) rubber; and
- 647 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with

648 nonrecycled materials; or

649 (c) a cogeneration facility as defined in Section 54-2-1.

650 (61) "Member of the immediate family of the producer" means a person who is related
651 to a producer described in Subsection 59-12-104(20)(a) as a:

652 (a) child or stepchild, regardless of whether the child or stepchild is:

653 (i) an adopted child or adopted stepchild; or

654 (ii) a foster child or foster stepchild;

655 (b) grandchild or stepgrandchild;

656 (c) grandparent or stepgrandparent;

657 (d) nephew or stepnephew;

658 (e) niece or stepniece;

659 (f) parent or stepparent;

660 (g) sibling or stepsibling;

661 (h) spouse;

662 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

663 or

664 (j) person similar to a person described in Subsections (61)(a) through (i) as

665 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah

666 Administrative Rulemaking Act.

667 (62) "Mobile home" is as defined in Section 15A-1-302.

668 (63) "Mobile telecommunications service" is as defined in the Mobile

669 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

670 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
671 the technology used, if:

672 (i) the origination point of the conveyance, routing, or transmission is not fixed;

673 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or

674 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
675 described in Subsection (64)(a)(ii) are not fixed.

676 (b) "Mobile wireless service" includes a telecommunications service that is provided
677 by a commercial mobile radio service provider.

678 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

679 commission may by rule define "commercial mobile radio service provider."

680 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"

681 means equipment that is:

682 (i) primarily and customarily used to provide or increase the ability to move from one
683 place to another;

684 (ii) appropriate for use in a:

685 (A) home; or

686 (B) motor vehicle; and

687 (iii) not generally used by persons with normal mobility.

688 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
689 the equipment described in Subsection (65)(a).

690 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
691 include:

692 (i) a motor vehicle;

693 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
694 vehicle manufacturer;

695 (iii) durable medical equipment; or

696 (iv) a prosthetic device.

697 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
698 certified service provider as the seller's agent to perform all of the seller's sales and use tax
699 functions for agreement sales and use taxes other than the seller's obligation under Section
700 59-12-124 to remit a tax on the seller's own purchases.

701 (67) "Model 2 seller" means a seller registered under the agreement that:

702 (a) except as provided in Subsection (67)(b), has selected a certified automated system
703 to perform the seller's sales tax functions for agreement sales and use taxes; and

704 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
705 sales tax:

706 (i) collected by the seller; and

707 (ii) to the appropriate local taxing jurisdiction.

708 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
709 the agreement that has:

- 710 (i) sales in at least five states that are members of the agreement;
- 711 (ii) total annual sales revenues of at least \$500,000,000;
- 712 (iii) a proprietary system that calculates the amount of tax:
 - 713 (A) for an agreement sales and use tax; and
 - 714 (B) due to each local taxing jurisdiction; and
- 715 (iv) entered into a performance agreement with the governing board of the agreement.
- 716 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
- 717 sellers using the same proprietary system.
- 718 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
- 719 model 1 seller, model 2 seller, or model 3 seller.
- 720 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.
- 721 (71) "Motor vehicle" is as defined in Section 41-1a-102.
- 722 (72) "Oil sands" means impregnated bituminous sands that:
 - 723 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
 - 724 other hydrocarbons, or otherwise treated;
 - 725 (b) yield mixtures of liquid hydrocarbon; and
 - 726 (c) require further processing other than mechanical blending before becoming finished
 - 727 petroleum products.
- 728 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
- 729 material that yields petroleum upon heating and distillation.
- 730 (74) "Optional computer software maintenance contract" means a computer software
- 731 maintenance contract that a customer is not obligated to purchase as a condition to the retail
- 732 sale of computer software.
- 733 (75) (a) "Other fuels" means products that burn independently to produce heat or
- 734 energy.
- 735 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
- 736 personal property.
- 737 (76) (a) "Paging service" means a telecommunications service that provides
- 738 transmission of a coded radio signal for the purpose of activating a specific pager.
- 739 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
- 740 includes a transmission by message or sound.

- 741 (77) "Pawnbroker" is as defined in Section 13-32a-102.
- 742 (78) "Pawn transaction" is as defined in Section 13-32a-102.
- 743 (79) (a) "Permanently attached to real property" means that for tangible personal
744 property attached to real property:
 - 745 (i) the attachment of the tangible personal property to the real property:
 - 746 (A) is essential to the use of the tangible personal property; and
 - 747 (B) suggests that the tangible personal property will remain attached to the real
748 property in the same place over the useful life of the tangible personal property; or
 - 749 (ii) if the tangible personal property is detached from the real property, the detachment
750 would:
 - 751 (A) cause substantial damage to the tangible personal property; or
 - 752 (B) require substantial alteration or repair of the real property to which the tangible
753 personal property is attached.
 - 754 (b) "Permanently attached to real property" includes:
 - 755 (i) the attachment of an accessory to the tangible personal property if the accessory is:
 - 756 (A) essential to the operation of the tangible personal property; and
 - 757 (B) attached only to facilitate the operation of the tangible personal property;
 - 758 (ii) a temporary detachment of tangible personal property from real property for a
759 repair or renovation if the repair or renovation is performed where the tangible personal
760 property and real property are located; or
 - 761 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
762 Subsection (79)(c)(iii) or (iv).
 - 763 (c) "Permanently attached to real property" does not include:
 - 764 (i) the attachment of portable or movable tangible personal property to real property if
765 that portable or movable tangible personal property is attached to real property only for:
 - 766 (A) convenience;
 - 767 (B) stability; or
 - 768 (C) for an obvious temporary purpose;
 - 769 (ii) the detachment of tangible personal property from real property except for the
770 detachment described in Subsection (79)(b)(ii);
 - 771 (iii) an attachment of the following tangible personal property to real property if the

772 attachment to real property is only through a line that supplies water, electricity, gas,
773 telecommunications, cable, or supplies a similar item as determined by the commission by rule
774 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

775 (A) a computer;

776 (B) a telephone;

777 (C) a television; or

778 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
779 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
780 Administrative Rulemaking Act; or

781 (iv) an item listed in Subsection [~~(117)~~] (124)(c).

782 (80) "Person" includes any individual, firm, partnership, joint venture, association,
783 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
784 municipality, district, or other local governmental entity of the state, or any group or
785 combination acting as a unit.

786 (81) "Place of primary use":

787 (a) for telecommunications service other than mobile telecommunications service,
788 means the street address representative of where the customer's use of the telecommunications
789 service primarily occurs, which shall be:

790 (i) the residential street address of the customer; or

791 (ii) the primary business street address of the customer; or

792 (b) for mobile telecommunications service, is as defined in the Mobile
793 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

794 (82) (a) "Postpaid calling service" means a telecommunications service a person
795 obtains by making a payment on a call-by-call basis:

796 (i) through the use of a:

797 (A) bank card;

798 (B) credit card;

799 (C) debit card; or

800 (D) travel card; or

801 (ii) by a charge made to a telephone number that is not associated with the origination
802 or termination of the telecommunications service.

803 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
804 service, that would be a prepaid wireless calling service if the service were exclusively a
805 telecommunications service.

806 (83) "Postproduction" means an activity related to the finishing or duplication of a
807 medium described in Subsection 59-12-104(54)(a).

808 (84) "Prepaid calling service" means a telecommunications service:

809 (a) that allows a purchaser access to telecommunications service that is exclusively
810 telecommunications service;

811 (b) that:

812 (i) is paid for in advance; and

813 (ii) enables the origination of a call using an:

814 (A) access number; or

815 (B) authorization code;

816 (c) that is dialed:

817 (i) manually; or

818 (ii) electronically; and

819 (d) sold in predetermined units or dollars that decline:

820 (i) by a known amount; and

821 (ii) with use.

822 (85) "Prepaid wireless calling service" means a telecommunications service:

823 (a) that provides the right to utilize:

824 (i) mobile wireless service; and

825 (ii) other service that is not a telecommunications service, including:

826 (A) the download of a product transferred electronically;

827 (B) a content service; or

828 (C) an ancillary service;

829 (b) that:

830 (i) is paid for in advance; and

831 (ii) enables the origination of a call using an:

832 (A) access number; or

833 (B) authorization code;

- 834 (c) that is dialed:
- 835 (i) manually; or
- 836 (ii) electronically; and
- 837 (d) sold in predetermined units or dollars that decline:
- 838 (i) by a known amount; and
- 839 (ii) with use.
- 840 (86) (a) "Prepared food" means:
- 841 (i) food:
- 842 (A) sold in a heated state; or
- 843 (B) heated by a seller;
- 844 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 845 item; or
- 846 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 847 by the seller, including a:
- 848 (A) plate;
- 849 (B) knife;
- 850 (C) fork;
- 851 (D) spoon;
- 852 (E) glass;
- 853 (F) cup;
- 854 (G) napkin; or
- 855 (H) straw.
- 856 (b) "Prepared food" does not include:
- 857 (i) food that a seller only:
- 858 (A) cuts;
- 859 (B) repackages; or
- 860 (C) pasteurizes; or
- 861 (ii) (A) the following:
- 862 (I) raw egg;
- 863 (II) raw fish;
- 864 (III) raw meat;

- 865 (IV) raw poultry; or
- 866 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 867 and
- 868 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 869 Food and Drug Administration's Food Code that a consumer cook the items described in
- 870 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 871 (iii) the following if sold without eating utensils provided by the seller:
- 872 (A) food and food ingredients sold by a seller if the seller's proper primary
- 873 classification under the 2002 North American Industry Classification System of the federal
- 874 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 875 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 876 Manufacturing;
- 877 (B) food and food ingredients sold in an unheated state:
- 878 (I) by weight or volume; and
- 879 (II) as a single item; or
- 880 (C) a bakery item, including:
- 881 (I) a bagel;
- 882 (II) a bar;
- 883 (III) a biscuit;
- 884 (IV) bread;
- 885 (V) a bun;
- 886 (VI) a cake;
- 887 (VII) a cookie;
- 888 (VIII) a croissant;
- 889 (IX) a danish;
- 890 (X) a donut;
- 891 (XI) a muffin;
- 892 (XII) a pastry;
- 893 (XIII) a pie;
- 894 (XIV) a roll;
- 895 (XV) a tart;

896 (XVI) a torte; or

897 (XVII) a tortilla.

898 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
899 does not include the following used to transport the food:

900 (i) a container; or

901 (ii) packaging.

902 (87) "Prescription" means an order, formula, or recipe that is issued:

903 (a) (i) orally;

904 (ii) in writing;

905 (iii) electronically; or

906 (iv) by any other manner of transmission; and

907 (b) by a licensed practitioner authorized by the laws of a state.

908 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
909 software" means computer software that is not designed and developed:

910 (i) by the author or other creator of the computer software; and

911 (ii) to the specifications of a specific purchaser.

912 (b) "Prewritten computer software" includes:

913 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
914 software is not designed and developed:

915 (A) by the author or other creator of the computer software; and

916 (B) to the specifications of a specific purchaser;

917 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
918 the author or other creator of the computer software to the specifications of a specific purchaser
919 if the computer software is sold to a person other than the purchaser; or

920 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
921 prewritten computer software or a prewritten portion of prewritten computer software:

922 (A) that is modified or enhanced to any degree; and

923 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
924 designed and developed to the specifications of a specific purchaser.

925 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
926 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for

927 the modification or enhancement are:

928 (i) reasonable; and

929 (ii) separately stated on the invoice or other statement of price provided to the
930 purchaser.

931 (89) (a) "Private communication service" means a telecommunications service:

932 (i) that entitles a customer to exclusive or priority use of one or more communications
933 channels between or among termination points; and

934 (ii) regardless of the manner in which the one or more communications channels are
935 connected.

936 (b) "Private communications service" includes the following provided in connection
937 with the use of one or more communications channels:

938 (i) an extension line;

939 (ii) a station;

940 (iii) switching capacity; or

941 (iv) another associated service that is provided in connection with the use of one or
942 more communications channels as defined in Section 59-12-215.

943 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
944 means a product transferred electronically that would be subject to a tax under this chapter if
945 that product was transferred in a manner other than electronically.

946 (b) "Product transferred electronically" does not include:

947 (i) an ancillary service;

948 (ii) computer software; or

949 (iii) a telecommunications service.

950 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

951 (i) artificially replace a missing portion of the body;

952 (ii) prevent or correct a physical deformity or physical malfunction; or

953 (iii) support a weak or deformed portion of the body.

954 (b) "Prosthetic device" includes:

955 (i) parts used in the repairs or renovation of a prosthetic device;

956 (ii) replacement parts for a prosthetic device;

957 (iii) a dental prosthesis; or

- 958 (iv) a hearing aid.
- 959 (c) "Prosthetic device" does not include:
- 960 (i) corrective eyeglasses; or
- 961 (ii) contact lenses.
- 962 (92) (a) "Protective equipment" means an item:
- 963 (i) for human wear; and
- 964 (ii) that is:
- 965 (A) designed as protection:
- 966 (I) to the wearer against injury or disease; or
- 967 (II) against damage or injury of other persons or property; and
- 968 (B) not suitable for general use.
- 969 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 970 commission shall make rules:
- 971 (i) listing the items that constitute "protective equipment"; and
- 972 (ii) that are consistent with the list of items that constitute "protective equipment"
- 973 under the agreement.
- 974 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 975 printed matter, other than a photocopy:
- 976 (i) regardless of:
- 977 (A) characteristics;
- 978 (B) copyright;
- 979 (C) form;
- 980 (D) format;
- 981 (E) method of reproduction; or
- 982 (F) source; and
- 983 (ii) made available in printed or electronic format.
- 984 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 985 commission may by rule define the term "photocopy."
- 986 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
- 987 (i) valued in money; and
- 988 (ii) for which tangible personal property, a product transferred electronically, or

989 services are:

990 (A) sold;

991 (B) leased; or

992 (C) rented.

993 (b) "Purchase price" and "sales price" include:

994 (i) the seller's cost of the tangible personal property, a product transferred

995 electronically, or services sold;

996 (ii) expenses of the seller, including:

997 (A) the cost of materials used;

998 (B) a labor cost;

999 (C) a service cost;

1000 (D) interest;

1001 (E) a loss;

1002 (F) the cost of transportation to the seller; or

1003 (G) a tax imposed on the seller;

1004 (iii) a charge by the seller for any service necessary to complete the sale; or

1005 (iv) consideration a seller receives from a person other than the purchaser if:

1006 (A) (I) the seller actually receives consideration from a person other than the purchaser;

1007 and

1008 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a

1009 price reduction or discount on the sale;

1010 (B) the seller has an obligation to pass the price reduction or discount through to the

1011 purchaser;

1012 (C) the amount of the consideration attributable to the sale is fixed and determinable by

1013 the seller at the time of the sale to the purchaser; and

1014 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the

1015 seller to claim a price reduction or discount; and

1016 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,

1017 coupon, or other documentation with the understanding that the person other than the seller

1018 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

1019 (II) the purchaser identifies that purchaser to the seller as a member of a group or

1020 organization allowed a price reduction or discount, except that a preferred customer card that is
1021 available to any patron of a seller does not constitute membership in a group or organization
1022 allowed a price reduction or discount; or

1023 (III) the price reduction or discount is identified as a third party price reduction or
1024 discount on the:

1025 (Aa) invoice the purchaser receives; or

1026 (Bb) certificate, coupon, or other documentation the purchaser presents.

1027 (c) "Purchase price" and "sales price" do not include:

1028 (i) a discount:

1029 (A) in a form including:

1030 (I) cash;

1031 (II) term; or

1032 (III) coupon;

1033 (B) that is allowed by a seller;

1034 (C) taken by a purchaser on a sale; and

1035 (D) that is not reimbursed by a third party; or

1036 (ii) the following if separately stated on an invoice, bill of sale, or similar document
1037 provided to the purchaser:

1038 (A) the following from credit extended on the sale of tangible personal property or
1039 services:

1040 (I) a carrying charge;

1041 (II) a financing charge; or

1042 (III) an interest charge;

1043 (B) a delivery charge;

1044 (C) an installation charge;

1045 (D) a manufacturer rebate on a motor vehicle; or

1046 (E) a tax or fee legally imposed directly on the consumer.

1047 (95) "Purchaser" means a person to whom:

1048 (a) a sale of tangible personal property is made;

1049 (b) a product is transferred electronically; or

1050 (c) a service is furnished.

1051 (96) "Regularly rented" means:
1052 (a) rented to a guest for value three or more times during a calendar year; or
1053 (b) advertised or held out to the public as a place that is regularly rented to guests for
1054 value.
1055 (97) "Rental" is as defined in Subsection (54).
1056 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
1057 personal property" means:
1058 (i) a repair or renovation of tangible personal property that is not permanently attached
1059 to real property; or
1060 (ii) attaching tangible personal property or a product transferred electronically to other
1061 tangible personal property or detaching tangible personal property or a product transferred
1062 electronically from other tangible personal property if:
1063 (A) the other tangible personal property to which the tangible personal property or
1064 product transferred electronically is attached or from which the tangible personal property or
1065 product transferred electronically is detached is not permanently attached to real property; and
1066 (B) the attachment of tangible personal property or a product transferred electronically
1067 to other tangible personal property or detachment of tangible personal property or a product
1068 transferred electronically from other tangible personal property is made in conjunction with a
1069 repair or replacement of tangible personal property or a product transferred electronically.
1070 (b) "Repairs or renovations of tangible personal property" does not include:
1071 (i) attaching prewritten computer software to other tangible personal property if the
1072 other tangible personal property to which the prewritten computer software is attached is not
1073 permanently attached to real property; or
1074 (ii) detaching prewritten computer software from other tangible personal property if the
1075 other tangible personal property from which the prewritten computer software is detached is
1076 not permanently attached to real property.
1077 (99) "Research and development" means the process of inquiry or experimentation
1078 aimed at the discovery of facts, devices, technologies, or applications and the process of
1079 preparing those devices, technologies, or applications for marketing.
1080 (100) (a) "Residential telecommunications services" means a telecommunications
1081 service or an ancillary service that is provided to an individual for personal use:

- 1082 (i) at a residential address; or
- 1083 (ii) at an institution, including a nursing home or a school, if the telecommunications
- 1084 service or ancillary service is provided to and paid for by the individual residing at the
- 1085 institution rather than the institution.
- 1086 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:
- 1087 (i) apartment; or
- 1088 (ii) other individual dwelling unit.
- 1089 (101) "Residential use" means the use in or around a home, apartment building,
- 1090 sleeping quarters, and similar facilities or accommodations.
- 1091 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
- 1092 than:
- 1093 (a) resale;
- 1094 (b) sublease; or
- 1095 (c) subrent.
- 1096 (103) (a) "Retailer" means any person engaged in a regularly organized business in
- 1097 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
- 1098 who is selling to the user or consumer and not for resale.
- 1099 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
- 1100 engaged in the business of selling to users or consumers within the state.
- 1101 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
- 1102 otherwise, in any manner, of tangible personal property or any other taxable transaction under
- 1103 Subsection 59-12-103(1), for consideration.
- 1104 (b) "Sale" includes:
- 1105 (i) installment and credit sales;
- 1106 (ii) any closed transaction constituting a sale;
- 1107 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
- 1108 chapter;
- 1109 (iv) any transaction if the possession of property is transferred but the seller retains the
- 1110 title as security for the payment of the price; and
- 1111 (v) any transaction under which right to possession, operation, or use of any article of
- 1112 tangible personal property is granted under a lease or contract and the transfer of possession

1113 would be taxable if an outright sale were made.
1114 (105) "Sale at retail" is as defined in Subsection (102).
1115 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
1116 personal property or a product transferred electronically that is subject to a tax under this
1117 chapter is transferred:
1118 (a) by a purchaser-lessee;
1119 (b) to a lessor;
1120 (c) for consideration; and
1121 (d) if:
1122 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1123 of the tangible personal property or product transferred electronically;
1124 (ii) the sale of the tangible personal property or product transferred electronically to the
1125 lessor is intended as a form of financing:
1126 (A) for the tangible personal property or product transferred electronically; and
1127 (B) to the purchaser-lessee; and
1128 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1129 is required to:
1130 (A) capitalize the tangible personal property or product transferred electronically for
1131 financial reporting purposes; and
1132 (B) account for the lease payments as payments made under a financing arrangement.
1133 (107) "Sales price" is as defined in Subsection (94).
1134 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
1135 amounts charged by a school:
1136 (i) sales that are directly related to the school's educational functions or activities
1137 including:
1138 (A) the sale of:
1139 (I) textbooks;
1140 (II) textbook fees;
1141 (III) laboratory fees;
1142 (IV) laboratory supplies; or
1143 (V) safety equipment;

1144 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1145 that:

1146 (I) a student is specifically required to wear as a condition of participation in a
1147 school-related event or school-related activity; and

1148 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1149 place of ordinary clothing;

1150 (C) sales of the following if the net or gross revenues generated by the sales are
1151 deposited into a school district fund or school fund dedicated to school meals:

1152 (I) food and food ingredients; or

1153 (II) prepared food; or

1154 (D) transportation charges for official school activities; or

1155 (ii) amounts paid to or amounts charged by a school for admission to a school-related
1156 event or school-related activity.

1157 (b) "Sales relating to schools" does not include:

1158 (i) bookstore sales of items that are not educational materials or supplies;

1159 (ii) except as provided in Subsection (108)(a)(i)(B):

1160 (A) clothing;

1161 (B) clothing accessories or equipment;

1162 (C) protective equipment; or

1163 (D) sports or recreational equipment; or

1164 (iii) amounts paid to or amounts charged by a school for admission to a school-related
1165 event or school-related activity if the amounts paid or charged are passed through to a person:

1166 (A) other than a:

1167 (I) school;

1168 (II) nonprofit organization authorized by a school board or a governing body of a
1169 private school to organize and direct a competitive secondary school activity; or

1170 (III) nonprofit association authorized by a school board or a governing body of a
1171 private school to organize and direct a competitive secondary school activity; and

1172 (B) that is required to collect sales and use taxes under this chapter.

1173 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1174 commission may make rules defining the term "passed through."

- 1175 (109) For purposes of this section and Section 59-12-104, "school":
- 1176 (a) means:
- 1177 (i) an elementary school or a secondary school that:
- 1178 (A) is a:
- 1179 (I) public school; or
- 1180 (II) private school; and
- 1181 (B) provides instruction for one or more grades kindergarten through 12; or
- 1182 (ii) a public school district; and
- 1183 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 1184 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 1185 (a) tangible personal property;
- 1186 (b) a product transferred electronically; or
- 1187 (c) a service.
- 1188 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 1189 means tangible personal property or a product transferred electronically if the tangible personal
- 1190 property or product transferred electronically is:
- 1191 (i) used primarily in the process of:
- 1192 (A) (I) manufacturing a semiconductor;
- 1193 (II) fabricating a semiconductor; or
- 1194 (III) research or development of a:
- 1195 (Aa) semiconductor; or
- 1196 (Bb) semiconductor manufacturing process; or
- 1197 (B) maintaining an environment suitable for a semiconductor; or
- 1198 (ii) consumed primarily in the process of:
- 1199 (A) (I) manufacturing a semiconductor;
- 1200 (II) fabricating a semiconductor; or
- 1201 (III) research or development of a:
- 1202 (Aa) semiconductor; or
- 1203 (Bb) semiconductor manufacturing process; or
- 1204 (B) maintaining an environment suitable for a semiconductor.
- 1205 (b) "Semiconductor fabricating, processing, research, or development materials"

1206 includes:

1207 (i) parts used in the repairs or renovations of tangible personal property or a product
1208 transferred electronically described in Subsection (111)(a); or

1209 (ii) a chemical, catalyst, or other material used to:

1210 (A) produce or induce in a semiconductor a:

1211 (I) chemical change; or

1212 (II) physical change;

1213 (B) remove impurities from a semiconductor; or

1214 (C) improve the marketable condition of a semiconductor.

1215 (112) "Senior citizen center" means a facility having the primary purpose of providing
1216 services to the aged as defined in Section 62A-3-101.

1217 (113) "Short-term lodging" means tourist home, cottage, hotel, motel, or trailer court
1218 accommodations and services that are regularly rented for less than 30 consecutive days.

1219 (114) (a) "Short-term lodging charge" means the full retail price charged for the sale,
1220 use, or possession of short-term lodging.

1221 (b) "Short-term lodging charge":

1222 (i) includes any short-term lodging intermediary charge;

1223 (ii) includes any other tangible personal property, product, or service, except for air
1224 transportation or a vehicle rental, that is:

1225 (A) purchased as part of a transaction that includes the purchase of short-term lodging;

1226 and

1227 (B) included, but not separately stated, on the invoice, bill of sale, or similar document
1228 provided to the purchaser of the short-term lodging; and

1229 (iii) excludes tax.

1230 (115) "Short-term lodging intermediary" means a person who:

1231 (a) is not a short-term lodging operator;

1232 (b) facilitates the sale, use, or possession of short-term lodging, including brokering,
1233 coordinating, or in any other way arranging for the purchase, sale, use, or possession of

1234 short-term lodging by the general public; and

1235 (c) charges a short-term lodging charge to a purchaser.

1236 (116) (a) "Short-term lodging intermediary charge" means an amount charged by a

1237 short-term lodging intermediary:

1238 (i) to the purchaser of short-term lodging for facilitating the sale, use, or possession of
1239 the short-term lodging; and

1240 (ii) regardless of how the amount is characterized.

1241 (b) "Short-term lodging intermediary charge" does not include a commission paid
1242 directly by a short-term lodging operator to a person for facilitating the sale, use, or possession
1243 of short-term lodging.

1244 (117) (a) "Short-term lodging operator" means a person who:

1245 (i) owns, operates, or manages short-term lodging; and

1246 (ii) makes short-term lodging available to purchasers for compensation.

1247 (b) "Short-term lodging operator" does not include:

1248 (i) a travel agent who does not own, operate, or manage short-term lodging; or

1249 (ii) another person who:

1250 (A) does not own, operate, or manage short-term lodging; and

1251 (B) arranges, books, brokers, coordinates, or facilitates a transaction involving
1252 short-term lodging between a purchaser and a person who owns, operates, or manages
1253 short-term lodging.

1254 (118) "Short-term lodging operator charge" means the difference between the
1255 short-term lodging charge and the short-term lodging intermediary charge.

1256 [~~H3~~] (119) "Simplified electronic return" means the electronic return:

1257 (a) described in Section 318(C) of the agreement; and

1258 (b) approved by the governing board of the agreement.

1259 [~~H4~~] (120) "Solar energy" means the sun used as the sole source of energy for
1260 producing electricity.

1261 [~~H5~~] (121) (a) "Sports or recreational equipment" means an item:

1262 (i) designed for human use; and

1263 (ii) that is:

1264 (A) worn in conjunction with:

1265 (I) an athletic activity; or

1266 (II) a recreational activity; and

1267 (B) not suitable for general use.

1268 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1269 commission shall make rules:

1270 (i) listing the items that constitute "sports or recreational equipment"; and

1271 (ii) that are consistent with the list of items that constitute "sports or recreational
1272 equipment" under the agreement.

1273 [~~(116)~~] (122) "State" means the state of Utah, its departments, and agencies.

1274 [~~(117)~~] (123) "Storage" means any keeping or retention of tangible personal property or
1275 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1276 except sale in the regular course of business.

1277 [~~(118)~~] (124) (a) Except as provided in Subsection [~~(118)~~] (124)(d) or (e), "tangible
1278 personal property" means personal property that:

1279 (i) may be:

1280 (A) seen;

1281 (B) weighed;

1282 (C) measured;

1283 (D) felt; or

1284 (E) touched; or

1285 (ii) is in any manner perceptible to the senses.

1286 (b) "Tangible personal property" includes:

1287 (i) electricity;

1288 (ii) water;

1289 (iii) gas;

1290 (iv) steam; or

1291 (v) prewritten computer software, regardless of the manner in which the prewritten
1292 computer software is transferred.

1293 (c) "Tangible personal property" includes the following regardless of whether the item
1294 is attached to real property:

1295 (i) a dishwasher;

1296 (ii) a dryer;

1297 (iii) a freezer;

1298 (iv) a microwave;

- 1299 (v) a refrigerator;
- 1300 (vi) a stove;
- 1301 (vii) a washer; or
- 1302 (viii) an item similar to Subsections [~~(118)~~] (124)(c)(i) through (vii) as determined by
- 1303 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1304 Rulemaking Act.
- 1305 (d) "Tangible personal property" does not include a product that is transferred
- 1306 electronically.
- 1307 (e) "Tangible personal property" does not include the following if attached to real
- 1308 property, regardless of whether the attachment to real property is only through a line that
- 1309 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
- 1310 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 1311 Rulemaking Act:
- 1312 (i) a hot water heater;
- 1313 (ii) a water filtration system; or
- 1314 (iii) a water softener system.
- 1315 [~~(119)~~] (125) (a) "Telecommunications enabling or facilitating equipment, machinery,
- 1316 or software" means an item listed in Subsection [~~(119)~~] (125)(b) if that item is purchased or
- 1317 leased primarily to enable or facilitate one or more of the following to function:
- 1318 (i) telecommunications switching or routing equipment, machinery, or software; or
- 1319 (ii) telecommunications transmission equipment, machinery, or software.
- 1320 (b) The following apply to Subsection [~~(119)~~] (125)(a):
- 1321 (i) a pole;
- 1322 (ii) software;
- 1323 (iii) a supplementary power supply;
- 1324 (iv) temperature or environmental equipment or machinery;
- 1325 (v) test equipment;
- 1326 (vi) a tower; or
- 1327 (vii) equipment, machinery, or software that functions similarly to an item listed in
- 1328 Subsections [~~(119)~~] (125)(b)(i) through (vi) as determined by the commission by rule made in
- 1329 accordance with Subsection [~~(119)~~] (125)(c).

1330 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1331 commission may by rule define what constitutes equipment, machinery, or software that
1332 functions similarly to an item listed in Subsections [~~(119)~~] (125)(b)(i) through (vi).

1333 [~~(120)~~] (126) "Telecommunications equipment, machinery, or software required for
1334 911 service" means equipment, machinery, or software that is required to comply with 47
1335 C.F.R. Sec. 20.18.

1336 [~~(121)~~] (127) "Telecommunications maintenance or repair equipment, machinery, or
1337 software" means equipment, machinery, or software purchased or leased primarily to maintain
1338 or repair one or more of the following, regardless of whether the equipment, machinery, or
1339 software is purchased or leased as a spare part or as an upgrade or modification to one or more
1340 of the following:

- 1341 (a) telecommunications enabling or facilitating equipment, machinery, or software;
- 1342 (b) telecommunications switching or routing equipment, machinery, or software; or
- 1343 (c) telecommunications transmission equipment, machinery, or software.

1344 [~~(122)~~] (128) (a) "Telecommunications service" means the electronic conveyance,
1345 routing, or transmission of audio, data, video, voice, or any other information or signal to a
1346 point, or among or between points.

1347 (b) "Telecommunications service" includes:

1348 (i) an electronic conveyance, routing, or transmission with respect to which a computer
1349 processing application is used to act:

1350 (A) on the code, form, or protocol of the content;

1351 (B) for the purpose of electronic conveyance, routing, or transmission; and

1352 (C) regardless of whether the service:

1353 (I) is referred to as voice over Internet protocol service; or

1354 (II) is classified by the Federal Communications Commission as enhanced or value
1355 added;

1356 (ii) an 800 service;

1357 (iii) a 900 service;

1358 (iv) a fixed wireless service;

1359 (v) a mobile wireless service;

1360 (vi) a postpaid calling service;

- 1361 (vii) a prepaid calling service;
- 1362 (viii) a prepaid wireless calling service; or
- 1363 (ix) a private communications service.
- 1364 (c) "Telecommunications service" does not include:
- 1365 (i) advertising, including directory advertising;
- 1366 (ii) an ancillary service;
- 1367 (iii) a billing and collection service provided to a third party;
- 1368 (iv) a data processing and information service if:
- 1369 (A) the data processing and information service allows data to be:
- 1370 (I) (Aa) acquired;
- 1371 (Bb) generated;
- 1372 (Cc) processed;
- 1373 (Dd) retrieved; or
- 1374 (Ee) stored; and
- 1375 (II) delivered by an electronic transmission to a purchaser; and
- 1376 (B) the purchaser's primary purpose for the underlying transaction is the processed data
- 1377 or information;
- 1378 (v) installation or maintenance of the following on a customer's premises:
- 1379 (A) equipment; or
- 1380 (B) wiring;
- 1381 (vi) Internet access service;
- 1382 (vii) a paging service;
- 1383 (viii) a product transferred electronically, including:
- 1384 (A) music;
- 1385 (B) reading material;
- 1386 (C) a ring tone;
- 1387 (D) software; or
- 1388 (E) video;
- 1389 (ix) a radio and television audio and video programming service:
- 1390 (A) regardless of the medium; and
- 1391 (B) including:

- 1392 (I) furnishing conveyance, routing, or transmission of a television audio and video
- 1393 programming service by a programming service provider;
- 1394 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
- 1395 (III) audio and video programming services delivered by a commercial mobile radio
- 1396 service provider as defined in 47 C.F.R. Sec. 20.3;
- 1397 (x) a value-added nonvoice data service; or
- 1398 (xi) tangible personal property.
- 1399 [~~(123)~~] (129) (a) "Telecommunications service provider" means a person that:
- 1400 (i) owns, controls, operates, or manages a telecommunications service; and
- 1401 (ii) engages in an activity described in Subsection [~~(123)~~] (129)(a)(i) for the shared use
- 1402 with or resale to any person of the telecommunications service.
- 1403 (b) A person described in Subsection [~~(123)~~] (129)(a) is a telecommunications service
- 1404 provider whether or not the Public Service Commission of Utah regulates:
- 1405 (i) that person; or
- 1406 (ii) the telecommunications service that the person owns, controls, operates, or
- 1407 manages.
- 1408 [~~(124)~~] (130) (a) "Telecommunications switching or routing equipment, machinery, or
- 1409 software" means an item listed in Subsection [~~(124)~~] (130)(b) if that item is purchased or
- 1410 leased primarily for switching or routing:
- 1411 (i) an ancillary service;
- 1412 (ii) data communications;
- 1413 (iii) voice communications; or
- 1414 (iv) telecommunications service.
- 1415 (b) The following apply to Subsection [~~(124)~~] (130)(a):
- 1416 (i) a bridge;
- 1417 (ii) a computer;
- 1418 (iii) a cross connect;
- 1419 (iv) a modem;
- 1420 (v) a multiplexer;
- 1421 (vi) plug in circuitry;
- 1422 (vii) a router;

1423 (viii) software;
1424 (ix) a switch; or
1425 (x) equipment, machinery, or software that functions similarly to an item listed in
1426 Subsections [~~(124)~~] (130)(b)(i) through (ix) as determined by the commission by rule made in
1427 accordance with Subsection [~~(124)~~] (130)(c).

1428 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1429 commission may by rule define what constitutes equipment, machinery, or software that
1430 functions similarly to an item listed in Subsections [~~(124)~~] (130)(b)(i) through (ix).

1431 [~~(125)~~] (131) (a) "Telecommunications transmission equipment, machinery, or
1432 software" means an item listed in Subsection [~~(125)~~] (131)(b) if that item is purchased or
1433 leased primarily for sending, receiving, or transporting:

1434 (i) an ancillary service;
1435 (ii) data communications;
1436 (iii) voice communications; or
1437 (iv) telecommunications service.

1438 (b) The following apply to Subsection [~~(125)~~] (131)(a):

1439 (i) an amplifier;
1440 (ii) a cable;
1441 (iii) a closure;
1442 (iv) a conduit;
1443 (v) a controller;
1444 (vi) a duplexer;
1445 (vii) a filter;
1446 (viii) an input device;
1447 (ix) an input/output device;
1448 (x) an insulator;
1449 (xi) microwave machinery or equipment;
1450 (xii) an oscillator;
1451 (xiii) an output device;
1452 (xiv) a pedestal;
1453 (xv) a power converter;

- 1454 (xvi) a power supply;
- 1455 (xvii) a radio channel;
- 1456 (xviii) a radio receiver;
- 1457 (xix) a radio transmitter;
- 1458 (xx) a repeater;
- 1459 (xxi) software;
- 1460 (xxii) a terminal;
- 1461 (xxiii) a timing unit;
- 1462 (xxiv) a transformer;
- 1463 (xxv) a wire; or
- 1464 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 1465 Subsections [~~(125)~~] (131)(b)(i) through (xxv) as determined by the commission by rule made in
- 1466 accordance with Subsection [~~(125)~~] (131)(c).
- 1467 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1468 commission may by rule define what constitutes equipment, machinery, or software that
- 1469 functions similarly to an item listed in Subsections [~~(125)~~] (131)(b)(i) through (xxv).
- 1470 [~~(126)~~] (132) (a) "Textbook for a higher education course" means a textbook or other
- 1471 printed material that is required for a course:
- 1472 (i) offered by an institution of higher education; and
- 1473 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 1474 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 1475 (133) "Travel package" means short-term lodging sold with the following for a single
- 1476 retail price:
- 1477 (a) air transportation; or
- 1478 (b) a vehicle rental.
- 1479 [~~(127)~~] (134) "Tobacco" means:
- 1480 (a) a cigarette;
- 1481 (b) a cigar;
- 1482 (c) chewing tobacco;
- 1483 (d) pipe tobacco; or
- 1484 (e) any other item that contains tobacco.

1485 [~~(128)~~] (135) "Unassisted amusement device" means an amusement device, skill
1486 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
1487 operate the amusement device, skill device, or ride device.

1488 [~~(129)~~] (136) (a) "Use" means the exercise of any right or power over tangible personal
1489 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
1490 incident to the ownership or the leasing of that tangible personal property, product transferred
1491 electronically, or service.

1492 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
1493 property, a product transferred electronically, or a service in the regular course of business and
1494 held for resale.

1495 [~~(130)~~] (137) "Value-added nonvoice data service" means a service:

1496 (a) that otherwise meets the definition of a telecommunications service except that a
1497 computer processing application is used to act primarily for a purpose other than conveyance,
1498 routing, or transmission; and

1499 (b) with respect to which a computer processing application is used to act on data or
1500 information:

- 1501 (i) code;
- 1502 (ii) content;
- 1503 (iii) form; or
- 1504 (iv) protocol.

1505 [~~(131)~~] (138) (a) Subject to Subsection [~~(131)~~] (138)(b), "vehicle" means the following
1506 that are required to be titled, registered, or titled and registered:

- 1507 (i) an aircraft as defined in Section 72-10-102;
- 1508 (ii) a vehicle as defined in Section 41-1a-102;
- 1509 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 1510 (iv) a vessel as defined in Section 41-1a-102.

1511 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 1512 (i) a vehicle described in Subsection (131)(a); or
- 1513 (ii) (A) a locomotive;
- 1514 (B) a freight car;
- 1515 (C) railroad work equipment; or

1516 (D) other railroad rolling stock.

1517 [~~(132)~~] (139) "Vehicle dealer" means a person engaged in the business of buying,

1518 selling, or exchanging a vehicle as defined in Subsection [~~(131)~~] (138).

1519 [~~(133)~~] (140) (a) "Vertical service" means an ancillary service that:

1520 (i) is offered in connection with one or more telecommunications services; and

1521 (ii) offers an advanced calling feature that allows a customer to:

1522 (A) identify a caller; and

1523 (B) manage multiple calls and call connections.

1524 (b) "Vertical service" includes an ancillary service that allows a customer to manage a

1525 conference bridging service.

1526 [~~(134)~~] (141) (a) "Voice mail service" means an ancillary service that enables a

1527 customer to receive, send, or store a recorded message.

1528 (b) "Voice mail service" does not include a vertical service that a customer is required

1529 to have in order to utilize a voice mail service.

1530 [~~(135)~~] (142) (a) Except as provided in Subsection [~~(135)~~] (142)(b), "waste energy

1531 facility" means a facility that generates electricity:

1532 (i) using as the primary source of energy waste materials that would be placed in a

1533 landfill or refuse pit if it were not used to generate electricity, including:

1534 (A) tires;

1535 (B) waste coal;

1536 (C) oil shale; or

1537 (D) municipal solid waste; and

1538 (ii) in amounts greater than actually required for the operation of the facility.

1539 (b) "Waste energy facility" does not include a facility that incinerates:

1540 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

1541 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

1542 [~~(136)~~] (143) "Watercraft" means a vessel as defined in Section 73-18-2.

1543 [~~(137)~~] (144) "Wind energy" means wind used as the sole source of energy to produce

1544 electricity.

1545 [~~(138)~~] (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a

1546 geographic location by the United States Postal Service.

1547 Section 2. Section **59-12-102 (Effective 07/01/14)** is amended to read:
1548 **59-12-102 (Effective 07/01/14). Definitions.**
1549 As used in this chapter:
1550 (1) "800 service" means a telecommunications service that:
1551 (a) allows a caller to dial a toll-free number without incurring a charge for the call; and
1552 (b) is typically marketed:
1553 (i) under the name 800 toll-free calling;
1554 (ii) under the name 855 toll-free calling;
1555 (iii) under the name 866 toll-free calling;
1556 (iv) under the name 877 toll-free calling;
1557 (v) under the name 888 toll-free calling; or
1558 (vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the
1559 Federal Communications Commission.
1560 (2) (a) "900 service" means an inbound toll telecommunications service that:
1561 (i) a subscriber purchases;
1562 (ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to
1563 the subscriber's:
1564 (A) prerecorded announcement; or
1565 (B) live service; and
1566 (iii) is typically marketed:
1567 (A) under the name 900 service; or
1568 (B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal
1569 Communications Commission.
1570 (b) "900 service" does not include a charge for:
1571 (i) a collection service a seller of a telecommunications service provides to a
1572 subscriber; or
1573 (ii) the following a subscriber sells to the subscriber's customer:
1574 (A) a product; or
1575 (B) a service.
1576 (3) (a) "Admission or user fees" includes season passes.
1577 (b) "Admission or user fees" does not include annual membership dues to private

1578 organizations.

1579 (4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on
1580 November 12, 2002, including amendments made to the Streamlined Sales and Use Tax
1581 Agreement after November 12, 2002.

1582 (5) "Agreement combined tax rate" means the sum of the tax rates:

1583 (a) listed under Subsection (6); and

1584 (b) that are imposed within a local taxing jurisdiction.

1585 (6) "Agreement sales and use tax" means a tax imposed under:

1586 (a) Subsection 59-12-103(2)(a)(i)(A);

1587 (b) Subsection 59-12-103(2)(b)(i);

1588 (c) Subsection 59-12-103(2)(c)(i);

1589 (d) Subsection 59-12-103(2)(d)(i)(A)(I);

1590 (e) Section 59-12-204;

1591 (f) Section 59-12-401;

1592 (g) Section 59-12-402;

1593 (h) Section 59-12-703;

1594 (i) Section 59-12-802;

1595 (j) Section 59-12-804;

1596 (k) Section 59-12-1102;

1597 (l) Section 59-12-1302;

1598 (m) Section 59-12-1402;

1599 (n) Section 59-12-1802;

1600 (o) Section 59-12-2003;

1601 (p) Section 59-12-2103;

1602 (q) Section 59-12-2213;

1603 (r) Section 59-12-2214;

1604 (s) Section 59-12-2215;

1605 (t) Section 59-12-2216;

1606 (u) Section 59-12-2217; or

1607 (v) Section 59-12-2218.

1608 (7) "Aircraft" is as defined in Section 72-10-102.

- 1609 (8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
- 1610 (a) except for:
- 1611 (i) an airline as defined in Section 59-2-102; or
- 1612 (ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group"
- 1613 includes a corporation that is qualified to do business but is not otherwise doing business in the
- 1614 state, of an airline; and
- 1615 (b) that has the workers, expertise, and facilities to perform the following, regardless of
- 1616 whether the business entity performs the following in this state:
- 1617 (i) check, diagnose, overhaul, and repair:
- 1618 (A) an onboard system of a fixed wing turbine powered aircraft; and
- 1619 (B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
- 1620 (ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft
- 1621 engine;
- 1622 (iii) perform at least the following maintenance on a fixed wing turbine powered
- 1623 aircraft:
- 1624 (A) an inspection;
- 1625 (B) a repair, including a structural repair or modification;
- 1626 (C) changing landing gear; and
- 1627 (D) addressing issues related to an aging fixed wing turbine powered aircraft;
- 1628 (iv) completely remove the existing paint of a fixed wing turbine powered aircraft and
- 1629 completely apply new paint to the fixed wing turbine powered aircraft; and
- 1630 (v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that
- 1631 results in a change in the fixed wing turbine powered aircraft's certification requirements by the
- 1632 authority that certifies the fixed wing turbine powered aircraft.
- 1633 (9) "Alcoholic beverage" means a beverage that:
- 1634 (a) is suitable for human consumption; and
- 1635 (b) contains .5% or more alcohol by volume.
- 1636 (10) "Alternative energy" means:
- 1637 (a) biomass energy;
- 1638 (b) geothermal energy;
- 1639 (c) hydroelectric energy;

- 1640 (d) solar energy;
- 1641 (e) wind energy; or
- 1642 (f) energy that is derived from:
 - 1643 (i) coal-to-liquids;
 - 1644 (ii) nuclear fuel;
 - 1645 (iii) oil-impregnated diatomaceous earth;
 - 1646 (iv) oil sands;
 - 1647 (v) oil shale; or
 - 1648 (vi) petroleum coke.
- 1649 (11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
- 1650 facility" means a facility that:
 - 1651 (i) uses alternative energy to produce electricity; and
 - 1652 (ii) has a production capacity of 2 megawatts or greater.
- 1653 (b) A facility is an alternative energy electricity production facility regardless of
- 1654 whether the facility is:
 - 1655 (i) connected to an electric grid; or
 - 1656 (ii) located on the premises of an electricity consumer.
- 1657 (12) (a) "Ancillary service" means a service associated with, or incidental to, the
- 1658 provision of telecommunications service.
 - 1659 (b) "Ancillary service" includes:
 - 1660 (i) a conference bridging service;
 - 1661 (ii) a detailed communications billing service;
 - 1662 (iii) directory assistance;
 - 1663 (iv) a vertical service; or
 - 1664 (v) a voice mail service.
- 1665 (13) "Area agency on aging" is as defined in Section 62A-3-101.
- 1666 (14) "Assisted amusement device" means an amusement device, skill device, or ride
- 1667 device that is started and stopped by an individual:
 - 1668 (a) who is not the purchaser or renter of the right to use or operate the amusement
 - 1669 device, skill device, or ride device; and
 - 1670 (b) at the direction of the seller of the right to use the amusement device, skill device,

1671 or ride device.

1672 (15) "Assisted cleaning or washing of tangible personal property" means cleaning or
1673 washing of tangible personal property if the cleaning or washing labor is primarily performed
1674 by an individual:

1675 (a) who is not the purchaser of the cleaning or washing of the tangible personal
1676 property; and

1677 (b) at the direction of the seller of the cleaning or washing of the tangible personal
1678 property.

1679 (16) "Authorized carrier" means:

1680 (a) in the case of vehicles operated over public highways, the holder of credentials
1681 indicating that the vehicle is or will be operated pursuant to both the International Registration
1682 Plan and the International Fuel Tax Agreement;

1683 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
1684 certificate or air carrier's operating certificate; or

1685 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
1686 stock, the holder of a certificate issued by the United States Surface Transportation Board.

1687 (17) (a) Except as provided in Subsection (17)(b), "biomass energy" means any of the
1688 following that is used as the primary source of energy to produce fuel or electricity:

1689 (i) material from a plant or tree; or

1690 (ii) other organic matter that is available on a renewable basis, including:

1691 (A) slash and brush from forests and woodlands;

1692 (B) animal waste;

1693 (C) methane produced:

1694 (I) at landfills; or

1695 (II) as a byproduct of the treatment of wastewater residuals;

1696 (D) aquatic plants; and

1697 (E) agricultural products.

1698 (b) "Biomass energy" does not include:

1699 (i) black liquor;

1700 (ii) treated woods; or

1701 (iii) biomass from municipal solid waste other than methane produced:

- 1702 (A) at landfills; or
- 1703 (B) as a byproduct of the treatment of wastewater residuals.
- 1704 (18) (a) "Bundled transaction" means the sale of two or more items of tangible personal
- 1705 property, products, or services if the tangible personal property, products, or services are:
- 1706 (i) distinct and identifiable; and
- 1707 (ii) sold for one nonitemized price.
- 1708 (b) "Bundled transaction" does not include:
- 1709 (i) the sale of tangible personal property if the sales price varies, or is negotiable, on
- 1710 the basis of the selection by the purchaser of the items of tangible personal property included in
- 1711 the transaction;
- 1712 (ii) the sale of real property;
- 1713 (iii) the sale of services to real property;
- 1714 (iv) the retail sale of tangible personal property and a service if:
- 1715 (A) the tangible personal property:
- 1716 (I) is essential to the use of the service; and
- 1717 (II) is provided exclusively in connection with the service; and
- 1718 (B) the service is the true object of the transaction;
- 1719 (v) the retail sale of two services if:
- 1720 (A) one service is provided that is essential to the use or receipt of a second service;
- 1721 (B) the first service is provided exclusively in connection with the second service; and
- 1722 (C) the second service is the true object of the transaction;
- 1723 (vi) a transaction that includes tangible personal property or a product subject to
- 1724 taxation under this chapter and tangible personal property or a product that is not subject to
- 1725 taxation under this chapter if the:
- 1726 (A) seller's purchase price of the tangible personal property or product subject to
- 1727 taxation under this chapter is de minimis; or
- 1728 (B) seller's sales price of the tangible personal property or product subject to taxation
- 1729 under this chapter is de minimis; and
- 1730 (vii) the retail sale of tangible personal property that is not subject to taxation under
- 1731 this chapter and tangible personal property that is subject to taxation under this chapter if:
- 1732 (A) that retail sale includes:

- 1733 (I) food and food ingredients;
- 1734 (II) a drug;
- 1735 (III) durable medical equipment;
- 1736 (IV) mobility enhancing equipment;
- 1737 (V) an over-the-counter drug;
- 1738 (VI) a prosthetic device; or
- 1739 (VII) a medical supply; and
- 1740 (B) subject to Subsection (18)(f):
- 1741 (I) the seller's purchase price of the tangible personal property subject to taxation under
- 1742 this chapter is 50% or less of the seller's total purchase price of that retail sale; or
- 1743 (II) the seller's sales price of the tangible personal property subject to taxation under
- 1744 this chapter is 50% or less of the seller's total sales price of that retail sale.
- 1745 (c) (i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a
- 1746 service that is distinct and identifiable does not include:
- 1747 (A) packaging that:
- 1748 (I) accompanies the sale of the tangible personal property, product, or service; and
- 1749 (II) is incidental or immaterial to the sale of the tangible personal property, product, or
- 1750 service;
- 1751 (B) tangible personal property, a product, or a service provided free of charge with the
- 1752 purchase of another item of tangible personal property, a product, or a service; or
- 1753 (C) an item of tangible personal property, a product, or a service included in the
- 1754 definition of "purchase price."
- 1755 (ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
- 1756 product, or a service is provided free of charge with the purchase of another item of tangible
- 1757 personal property, a product, or a service if the sales price of the purchased item of tangible
- 1758 personal property, product, or service does not vary depending on the inclusion of the tangible
- 1759 personal property, product, or service provided free of charge.
- 1760 (d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
- 1761 does not include a price that is separately identified by tangible personal property, product, or
- 1762 service on the following, regardless of whether the following is in paper format or electronic
- 1763 format:

- 1764 (A) a binding sales document; or
- 1765 (B) another supporting sales-related document that is available to a purchaser.
- 1766 (ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
- 1767 supporting sales-related document that is available to a purchaser includes:
 - 1768 (A) a bill of sale;
 - 1769 (B) a contract;
 - 1770 (C) an invoice;
 - 1771 (D) a lease agreement;
 - 1772 (E) a periodic notice of rates and services;
 - 1773 (F) a price list;
 - 1774 (G) a rate card;
 - 1775 (H) a receipt; or
 - 1776 (I) a service agreement.
- 1777 (e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
- 1778 property or a product subject to taxation under this chapter is de minimis if:
 - 1779 (A) the seller's purchase price of the tangible personal property or product is 10% or
 - 1780 less of the seller's total purchase price of the bundled transaction; or
 - 1781 (B) the seller's sales price of the tangible personal property or product is 10% or less of
 - 1782 the seller's total sales price of the bundled transaction.
- 1783 (ii) For purposes of Subsection (18)(b)(vi), a seller:
 - 1784 (A) shall use the seller's purchase price or the seller's sales price to determine if the
 - 1785 purchase price or sales price of the tangible personal property or product subject to taxation
 - 1786 under this chapter is de minimis; and
 - 1787 (B) may not use a combination of the seller's purchase price and the seller's sales price
 - 1788 to determine if the purchase price or sales price of the tangible personal property or product
 - 1789 subject to taxation under this chapter is de minimis.
- 1790 (iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service
- 1791 contract to determine if the sales price of tangible personal property or a product is de minimis.
- 1792 (f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of
- 1793 the seller's purchase price and the seller's sales price to determine if tangible personal property
- 1794 subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales

1795 price of that retail sale.

1796 (19) "Certified automated system" means software certified by the governing board of
1797 the agreement that:

1798 (a) calculates the agreement sales and use tax imposed within a local taxing
1799 jurisdiction:

1800 (i) on a transaction; and

1801 (ii) in the states that are members of the agreement;

1802 (b) determines the amount of agreement sales and use tax to remit to a state that is a
1803 member of the agreement; and

1804 (c) maintains a record of the transaction described in Subsection (19)(a)(i).

1805 (20) "Certified service provider" means an agent certified:

1806 (a) by the governing board of the agreement; and

1807 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
1808 use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's
1809 own purchases.

1810 (21) (a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel
1811 suitable for general use.

1812 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1813 commission shall make rules:

1814 (i) listing the items that constitute "clothing"; and

1815 (ii) that are consistent with the list of items that constitute "clothing" under the
1816 agreement.

1817 (22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

1818 (23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
1819 fuels that does not constitute industrial use under Subsection (51) or residential use under
1820 Subsection (101).

1821 (24) (a) "Common carrier" means a person engaged in or transacting the business of
1822 transporting passengers, freight, merchandise, or other property for hire within this state.

1823 (b) (i) "Common carrier" does not include a person who, at the time the person is
1824 traveling to or from that person's place of employment, transports a passenger to or from the
1825 passenger's place of employment.

1826 (ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3,
1827 Utah Administrative Rulemaking Act, the commission may make rules defining what
1828 constitutes a person's place of employment.

1829 (25) "Component part" includes:

1830 (a) poultry, dairy, and other livestock feed, and their components;

1831 (b) baling ties and twine used in the baling of hay and straw;

1832 (c) fuel used for providing temperature control of orchards and commercial
1833 greenhouses doing a majority of their business in wholesale sales, and for providing power for
1834 off-highway type farm machinery; and

1835 (d) feed, seeds, and seedlings.

1836 (26) "Computer" means an electronic device that accepts information:

1837 (a) (i) in digital form; or

1838 (ii) in a form similar to digital form; and

1839 (b) manipulates that information for a result based on a sequence of instructions.

1840 (27) "Computer software" means a set of coded instructions designed to cause:

1841 (a) a computer to perform a task; or

1842 (b) automatic data processing equipment to perform a task.

1843 (28) "Computer software maintenance contract" means a contract that obligates a seller
1844 of computer software to provide a customer with:

1845 (a) future updates or upgrades to computer software;

1846 (b) support services with respect to computer software; or

1847 (c) a combination of Subsections (28)(a) and (b).

1848 (29) (a) "Conference bridging service" means an ancillary service that links two or
1849 more participants of an audio conference call or video conference call.

1850 (b) "Conference bridging service" may include providing a telephone number as part of
1851 the ancillary service described in Subsection (29)(a).

1852 (c) "Conference bridging service" does not include a telecommunications service used
1853 to reach the ancillary service described in Subsection (29)(a).

1854 (30) "Construction materials" means any tangible personal property that will be
1855 converted into real property.

1856 (31) "Delivered electronically" means delivered to a purchaser by means other than

1857 tangible storage media.

1858 (32) (a) "Delivery charge" means a charge:

1859 (i) by a seller of:

1860 (A) tangible personal property;

1861 (B) a product transferred electronically; or

1862 (C) services; and

1863 (ii) for preparation and delivery of the tangible personal property, product transferred

1864 electronically, or services described in Subsection (32)(a)(i) to a location designated by the

1865 purchaser.

1866 (b) "Delivery charge" includes a charge for the following:

1867 (i) transportation;

1868 (ii) shipping;

1869 (iii) postage;

1870 (iv) handling;

1871 (v) crating; or

1872 (vi) packing.

1873 (33) "Detailed telecommunications billing service" means an ancillary service of

1874 separately stating information pertaining to individual calls on a customer's billing statement.

1875 (34) "Dietary supplement" means a product, other than tobacco, that:

1876 (a) is intended to supplement the diet;

1877 (b) contains one or more of the following dietary ingredients:

1878 (i) a vitamin;

1879 (ii) a mineral;

1880 (iii) an herb or other botanical;

1881 (iv) an amino acid;

1882 (v) a dietary substance for use by humans to supplement the diet by increasing the total

1883 dietary intake; or

1884 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient

1885 described in Subsections (34)(b)(i) through (v);

1886 (c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:

1887 (A) tablet form;

- 1888 (B) capsule form;
- 1889 (C) powder form;
- 1890 (D) softgel form;
- 1891 (E) gelcap form; or
- 1892 (F) liquid form; or
- 1893 (ii) notwithstanding Subsection (34)(c)(i), if the product is not intended for ingestion in
- 1894 a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
- 1895 (A) as conventional food; and
- 1896 (B) for use as a sole item of:
- 1897 (I) a meal; or
- 1898 (II) the diet; and
- 1899 (d) is required to be labeled as a dietary supplement:
- 1900 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 1901 (ii) as required by 21 C.F.R. Sec. 101.36.
- 1902 (35) (a) "Direct mail" means printed material delivered or distributed by United States
- 1903 mail or other delivery service:
- 1904 (i) to:
- 1905 (A) a mass audience; or
- 1906 (B) addressees on a mailing list provided:
- 1907 (I) by a purchaser of the mailing list; or
- 1908 (II) at the discretion of the purchaser of the mailing list; and
- 1909 (ii) if the cost of the printed material is not billed directly to the recipients.
- 1910 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
- 1911 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
- 1912 (c) "Direct mail" does not include multiple items of printed material delivered to a
- 1913 single address.
- 1914 (36) "Directory assistance" means an ancillary service of providing:
- 1915 (a) address information; or
- 1916 (b) telephone number information.
- 1917 (37) (a) "Disposable home medical equipment or supplies" means medical equipment
- 1918 or supplies that:

- 1919 (i) cannot withstand repeated use; and
- 1920 (ii) are purchased by, for, or on behalf of a person other than:
 - 1921 (A) a health care facility as defined in Section 26-21-2;
 - 1922 (B) a health care provider as defined in Section 78B-3-403;
 - 1923 (C) an office of a health care provider described in Subsection (37)(a)(ii)(B); or
 - 1924 (D) a person similar to a person described in Subsections (37)(a)(ii)(A) through (C).
- 1925 (b) "Disposable home medical equipment or supplies" does not include:
 - 1926 (i) a drug;
 - 1927 (ii) durable medical equipment;
 - 1928 (iii) a hearing aid;
 - 1929 (iv) a hearing aid accessory;
 - 1930 (v) mobility enhancing equipment; or
 - 1931 (vi) tangible personal property used to correct impaired vision, including:
 - 1932 (A) eyeglasses; or
 - 1933 (B) contact lenses.
- 1934 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1935 commission may by rule define what constitutes medical equipment or supplies.
- 1936 (38) (a) "Drug" means a compound, substance, or preparation, or a component of a
- 1937 compound, substance, or preparation that is:
 - 1938 (i) recognized in:
 - 1939 (A) the official United States Pharmacopoeia;
 - 1940 (B) the official Homeopathic Pharmacopoeia of the United States;
 - 1941 (C) the official National Formulary; or
 - 1942 (D) a supplement to a publication listed in Subsections (38)(a)(i)(A) through (C);
 - 1943 (ii) intended for use in the:
 - 1944 (A) diagnosis of disease;
 - 1945 (B) cure of disease;
 - 1946 (C) mitigation of disease;
 - 1947 (D) treatment of disease; or
 - 1948 (E) prevention of disease; or
 - 1949 (iii) intended to affect:

- 1950 (A) the structure of the body; or
- 1951 (B) any function of the body.
- 1952 (b) "Drug" does not include:
- 1953 (i) food and food ingredients;
- 1954 (ii) a dietary supplement;
- 1955 (iii) an alcoholic beverage; or
- 1956 (iv) a prosthetic device.
- 1957 (39) (a) Except as provided in Subsection (39)(c), "durable medical equipment" means
- 1958 equipment that:
- 1959 (i) can withstand repeated use;
- 1960 (ii) is primarily and customarily used to serve a medical purpose;
- 1961 (iii) generally is not useful to a person in the absence of illness or injury; and
- 1962 (iv) is not worn in or on the body.
- 1963 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
- 1964 equipment described in Subsection (39)(a).
- 1965 (c) Notwithstanding Subsection (39)(a), "durable medical equipment" does not include
- 1966 mobility enhancing equipment.
- 1967 (40) "Electronic" means:
- 1968 (a) relating to technology; and
- 1969 (b) having:
- 1970 (i) electrical capabilities;
- 1971 (ii) digital capabilities;
- 1972 (iii) magnetic capabilities;
- 1973 (iv) wireless capabilities;
- 1974 (v) optical capabilities;
- 1975 (vi) electromagnetic capabilities; or
- 1976 (vii) capabilities similar to Subsections (40)(b)(i) through (vi).
- 1977 (41) "Employee" is as defined in Section 59-10-401.
- 1978 (42) "Fixed guideway" means a public transit facility that uses and occupies:
- 1979 (a) rail for the use of public transit; or
- 1980 (b) a separate right-of-way for the use of public transit.

- 1981 (43) "Fixed wing turbine powered aircraft" means an aircraft that:
- 1982 (a) is powered by turbine engines;
- 1983 (b) operates on jet fuel; and
- 1984 (c) has wings that are permanently attached to the fuselage of the aircraft.
- 1985 (44) "Fixed wireless service" means a telecommunications service that provides radio
- 1986 communication between fixed points.
- 1987 (45) (a) "Food and food ingredients" means substances:
- 1988 (i) regardless of whether the substances are in:
- 1989 (A) liquid form;
- 1990 (B) concentrated form;
- 1991 (C) solid form;
- 1992 (D) frozen form;
- 1993 (E) dried form; or
- 1994 (F) dehydrated form; and
- 1995 (ii) that are:
- 1996 (A) sold for:
- 1997 (I) ingestion by humans; or
- 1998 (II) chewing by humans; and
- 1999 (B) consumed for the substance's:
- 2000 (I) taste; or
- 2001 (II) nutritional value.
- 2002 (b) "Food and food ingredients" includes an item described in Subsection (86)(b)(iii).
- 2003 (c) "Food and food ingredients" does not include:
- 2004 (i) an alcoholic beverage;
- 2005 (ii) tobacco; or
- 2006 (iii) prepared food.
- 2007 (46) (a) "Fundraising sales" means sales:
- 2008 (i) (A) made by a school; or
- 2009 (B) made by a school student;
- 2010 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 2011 materials, or provide transportation; and

2012 (iii) that are part of an officially sanctioned school activity.

2013 (b) For purposes of Subsection (46)(a)(iii), "officially sanctioned school activity"

2014 means a school activity:

2015 (i) that is conducted in accordance with a formal policy adopted by the school or school
2016 district governing the authorization and supervision of fundraising activities;

2017 (ii) that does not directly or indirectly compensate an individual teacher or other
2018 educational personnel by direct payment, commissions, or payment in kind; and

2019 (iii) the net or gross revenues from which are deposited in a dedicated account
2020 controlled by the school or school district.

2021 (47) "Geothermal energy" means energy contained in heat that continuously flows
2022 outward from the earth that is used as the sole source of energy to produce electricity.

2023 (48) "Governing board of the agreement" means the governing board of the agreement
2024 that is:

2025 (a) authorized to administer the agreement; and

2026 (b) established in accordance with the agreement.

2027 (49) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

2028 (i) the executive branch of the state, including all departments, institutions, boards,
2029 divisions, bureaus, offices, commissions, and committees;

2030 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
2031 Office of the Court Administrator, and similar administrative units in the judicial branch;

2032 (iii) the legislative branch of the state, including the House of Representatives, the
2033 Senate, the Legislative Printing Office, the Office of Legislative Research and General
2034 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
2035 Analyst;

2036 (iv) the National Guard;

2037 (v) an independent entity as defined in Section 63E-1-102; or

2038 (vi) a political subdivision as defined in Section 17B-1-102.

2039 (b) "Governmental entity" does not include the state systems of public and higher
2040 education, including:

2041 (i) a college campus of the Utah College of Applied Technology;

2042 (ii) a school;

- 2043 (iii) the State Board of Education;
- 2044 (iv) the State Board of Regents; or
- 2045 (v) an institution of higher education.
- 2046 (50) "Hydroelectric energy" means water used as the sole source of energy to produce
- 2047 electricity.
- 2048 (51) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 2049 other fuels:
- 2050 (a) in mining or extraction of minerals;
- 2051 (b) in agricultural operations to produce an agricultural product up to the time of
- 2052 harvest or placing the agricultural product into a storage facility, including:
- 2053 (i) commercial greenhouses;
- 2054 (ii) irrigation pumps;
- 2055 (iii) farm machinery;
- 2056 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 2057 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 2058 (v) other farming activities;
- 2059 (c) in manufacturing tangible personal property at an establishment described in SIC
- 2060 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 2061 Executive Office of the President, Office of Management and Budget;
- 2062 (d) by a scrap recycler if:
- 2063 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 2064 one or more of the following items into prepared grades of processed materials for use in new
- 2065 products:
- 2066 (A) iron;
- 2067 (B) steel;
- 2068 (C) nonferrous metal;
- 2069 (D) paper;
- 2070 (E) glass;
- 2071 (F) plastic;
- 2072 (G) textile; or
- 2073 (H) rubber; and

2074 (ii) the new products under Subsection (51)(d)(i) would otherwise be made with
2075 nonrecycled materials; or

2076 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
2077 cogeneration facility as defined in Section 54-2-1.

2078 (52) (a) Except as provided in Subsection (52)(b), "installation charge" means a charge
2079 for installing:

2080 (i) tangible personal property; or

2081 (ii) a product transferred electronically.

2082 (b) "Installation charge" does not include a charge for:

2083 (i) repairs or renovations of:

2084 (A) tangible personal property; or

2085 (B) a product transferred electronically; or

2086 (ii) attaching tangible personal property or a product transferred electronically:

2087 (A) to other tangible personal property; and

2088 (B) as part of a manufacturing or fabrication process.

2089 (53) "Institution of higher education" means an institution of higher education listed in
2090 Section 53B-2-101.

2091 (54) (a) "Lease" or "rental" means a transfer of possession or control of tangible
2092 personal property or a product transferred electronically for:

2093 (i) (A) a fixed term; or

2094 (B) an indeterminate term; and

2095 (ii) consideration.

2096 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
2097 amount of consideration may be increased or decreased by reference to the amount realized
2098 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
2099 Code.

2100 (c) "Lease" or "rental" does not include:

2101 (i) a transfer of possession or control of property under a security agreement or
2102 deferred payment plan that requires the transfer of title upon completion of the required
2103 payments;

2104 (ii) a transfer of possession or control of property under an agreement that requires the

2105 transfer of title:

2106 (A) upon completion of required payments; and

2107 (B) if the payment of an option price does not exceed the greater of:

2108 (I) \$100; or

2109 (II) 1% of the total required payments; or

2110 (iii) providing tangible personal property along with an operator for a fixed period of

2111 time or an indeterminate period of time if the operator is necessary for equipment to perform as

2112 designed.

2113 (d) For purposes of Subsection (54)(c)(iii), an operator is necessary for equipment to

2114 perform as designed if the operator's duties exceed the:

2115 (i) set-up of tangible personal property;

2116 (ii) maintenance of tangible personal property; or

2117 (iii) inspection of tangible personal property.

2118 (55) "Life science establishment" means an establishment in this state that is classified

2119 under the following NAICS codes of the 2007 North American Industry Classification System

2120 of the federal Executive Office of the President, Office of Management and Budget:

2121 (a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

2122 (b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus

2123 Manufacturing; or

2124 (c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

2125 (56) "Life science research and development facility" means a facility owned, leased,

2126 or rented by a life science establishment if research and development is performed in 51% or

2127 more of the total area of the facility.

2128 (57) "Load and leave" means delivery to a purchaser by use of a tangible storage media

2129 if the tangible storage media is not physically transferred to the purchaser.

2130 (58) "Local taxing jurisdiction" means a:

2131 (a) county that is authorized to impose an agreement sales and use tax;

2132 (b) city that is authorized to impose an agreement sales and use tax; or

2133 (c) town that is authorized to impose an agreement sales and use tax.

2134 (59) "Manufactured home" is as defined in Section 15A-1-302.

2135 (60) For purposes of Section 59-12-104, "manufacturing facility" means:

- 2136 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
2137 Industrial Classification Manual of the federal Executive Office of the President, Office of
2138 Management and Budget;
- 2139 (b) a scrap recycler if:
- 2140 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
2141 one or more of the following items into prepared grades of processed materials for use in new
2142 products:
- 2143 (A) iron;
 - 2144 (B) steel;
 - 2145 (C) nonferrous metal;
 - 2146 (D) paper;
 - 2147 (E) glass;
 - 2148 (F) plastic;
 - 2149 (G) textile; or
 - 2150 (H) rubber; and
- 2151 (ii) the new products under Subsection (60)(b)(i) would otherwise be made with
2152 nonrecycled materials; or
- 2153 (c) a cogeneration facility as defined in Section 54-2-1.
- 2154 (61) "Member of the immediate family of the producer" means a person who is related
2155 to a producer described in Subsection 59-12-104(20)(a) as a:
- 2156 (a) child or stepchild, regardless of whether the child or stepchild is:
 - 2157 (i) an adopted child or adopted stepchild; or
 - 2158 (ii) a foster child or foster stepchild;
 - 2159 (b) grandchild or stepgrandchild;
 - 2160 (c) grandparent or stepgrandparent;
 - 2161 (d) nephew or stepnephew;
 - 2162 (e) niece or stepniece;
 - 2163 (f) parent or stepparent;
 - 2164 (g) sibling or stepsibling;
 - 2165 (h) spouse;
 - 2166 (i) person who is the spouse of a person described in Subsections (61)(a) through (g);

2167 or

2168 (j) person similar to a person described in Subsections (61)(a) through (i) as
2169 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
2170 Administrative Rulemaking Act.

2171 (62) "Mobile home" is as defined in Section 15A-1-302.

2172 (63) "Mobile telecommunications service" is as defined in the Mobile
2173 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2174 (64) (a) "Mobile wireless service" means a telecommunications service, regardless of
2175 the technology used, if:

- 2176 (i) the origination point of the conveyance, routing, or transmission is not fixed;
- 2177 (ii) the termination point of the conveyance, routing, or transmission is not fixed; or
- 2178 (iii) the origination point described in Subsection (64)(a)(i) and the termination point
2179 described in Subsection (64)(a)(ii) are not fixed.

2180 (b) "Mobile wireless service" includes a telecommunications service that is provided
2181 by a commercial mobile radio service provider.

2182 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2183 commission may by rule define "commercial mobile radio service provider."

2184 (65) (a) Except as provided in Subsection (65)(c), "mobility enhancing equipment"
2185 means equipment that is:

- 2186 (i) primarily and customarily used to provide or increase the ability to move from one
2187 place to another;
- 2188 (ii) appropriate for use in a:
 - 2189 (A) home; or
 - 2190 (B) motor vehicle; and
- 2191 (iii) not generally used by persons with normal mobility.

2192 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
2193 the equipment described in Subsection (65)(a).

2194 (c) Notwithstanding Subsection (65)(a), "mobility enhancing equipment" does not
2195 include:

- 2196 (i) a motor vehicle;
- 2197 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

2198 vehicle manufacturer;

2199 (iii) durable medical equipment; or

2200 (iv) a prosthetic device.

2201 (66) "Model 1 seller" means a seller registered under the agreement that has selected a
2202 certified service provider as the seller's agent to perform all of the seller's sales and use tax
2203 functions for agreement sales and use taxes other than the seller's obligation under Section
2204 59-12-124 to remit a tax on the seller's own purchases.

2205 (67) "Model 2 seller" means a seller registered under the agreement that:

2206 (a) except as provided in Subsection (67)(b), has selected a certified automated system
2207 to perform the seller's sales tax functions for agreement sales and use taxes; and

2208 (b) notwithstanding Subsection (67)(a), retains responsibility for remitting all of the
2209 sales tax:

2210 (i) collected by the seller; and

2211 (ii) to the appropriate local taxing jurisdiction.

2212 (68) (a) Subject to Subsection (68)(b), "model 3 seller" means a seller registered under
2213 the agreement that has:

2214 (i) sales in at least five states that are members of the agreement;

2215 (ii) total annual sales revenues of at least \$500,000,000;

2216 (iii) a proprietary system that calculates the amount of tax:

2217 (A) for an agreement sales and use tax; and

2218 (B) due to each local taxing jurisdiction; and

2219 (iv) entered into a performance agreement with the governing board of the agreement.

2220 (b) For purposes of Subsection (68)(a), "model 3 seller" includes an affiliated group of
2221 sellers using the same proprietary system.

2222 (69) "Model 4 seller" means a seller that is registered under the agreement and is not a
2223 model 1 seller, model 2 seller, or model 3 seller.

2224 (70) "Modular home" means a modular unit as defined in Section 15A-1-302.

2225 (71) "Motor vehicle" is as defined in Section 41-1a-102.

2226 (72) "Oil sands" means impregnated bituminous sands that:

2227 (a) contain a heavy, thick form of petroleum that is released when heated, mixed with
2228 other hydrocarbons, or otherwise treated;

2229 (b) yield mixtures of liquid hydrocarbon; and
2230 (c) require further processing other than mechanical blending before becoming finished
2231 petroleum products.

2232 (73) "Oil shale" means a group of fine black to dark brown shales containing kerogen
2233 material that yields petroleum upon heating and distillation.

2234 (74) "Optional computer software maintenance contract" means a computer software
2235 maintenance contract that a customer is not obligated to purchase as a condition to the retail
2236 sale of computer software.

2237 (75) (a) "Other fuels" means products that burn independently to produce heat or
2238 energy.

2239 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
2240 personal property.

2241 (76) (a) "Paging service" means a telecommunications service that provides
2242 transmission of a coded radio signal for the purpose of activating a specific pager.

2243 (b) For purposes of Subsection (76)(a), the transmission of a coded radio signal
2244 includes a transmission by message or sound.

2245 (77) "Pawnbroker" is as defined in Section 13-32a-102.

2246 (78) "Pawn transaction" is as defined in Section 13-32a-102.

2247 (79) (a) "Permanently attached to real property" means that for tangible personal
2248 property attached to real property:

2249 (i) the attachment of the tangible personal property to the real property:

2250 (A) is essential to the use of the tangible personal property; and

2251 (B) suggests that the tangible personal property will remain attached to the real
2252 property in the same place over the useful life of the tangible personal property; or

2253 (ii) if the tangible personal property is detached from the real property, the detachment
2254 would:

2255 (A) cause substantial damage to the tangible personal property; or

2256 (B) require substantial alteration or repair of the real property to which the tangible
2257 personal property is attached.

2258 (b) "Permanently attached to real property" includes:

2259 (i) the attachment of an accessory to the tangible personal property if the accessory is:

- 2260 (A) essential to the operation of the tangible personal property; and
- 2261 (B) attached only to facilitate the operation of the tangible personal property;
- 2262 (ii) a temporary detachment of tangible personal property from real property for a
- 2263 repair or renovation if the repair or renovation is performed where the tangible personal
- 2264 property and real property are located; or
- 2265 (iii) property attached to oil, gas, or water pipelines, except for the property listed in
- 2266 Subsection (79)(c)(iii) or (iv).
- 2267 (c) "Permanently attached to real property" does not include:
- 2268 (i) the attachment of portable or movable tangible personal property to real property if
- 2269 that portable or movable tangible personal property is attached to real property only for:
- 2270 (A) convenience;
- 2271 (B) stability; or
- 2272 (C) for an obvious temporary purpose;
- 2273 (ii) the detachment of tangible personal property from real property except for the
- 2274 detachment described in Subsection (79)(b)(ii);
- 2275 (iii) an attachment of the following tangible personal property to real property if the
- 2276 attachment to real property is only through a line that supplies water, electricity, gas,
- 2277 telecommunications, cable, or supplies a similar item as determined by the commission by rule
- 2278 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 2279 (A) a computer;
- 2280 (B) a telephone;
- 2281 (C) a television; or
- 2282 (D) tangible personal property similar to Subsections (79)(c)(iii)(A) through (C) as
- 2283 determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah
- 2284 Administrative Rulemaking Act; or
- 2285 (iv) an item listed in Subsection [~~(117)~~] (124)(c).
- 2286 (80) "Person" includes any individual, firm, partnership, joint venture, association,
- 2287 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
- 2288 municipality, district, or other local governmental entity of the state, or any group or
- 2289 combination acting as a unit.
- 2290 (81) "Place of primary use":

2291 (a) for telecommunications service other than mobile telecommunications service,
2292 means the street address representative of where the customer's use of the telecommunications
2293 service primarily occurs, which shall be:

- 2294 (i) the residential street address of the customer; or
- 2295 (ii) the primary business street address of the customer; or
- 2296 (b) for mobile telecommunications service, is as defined in the Mobile
2297 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

2298 (82) (a) "Postpaid calling service" means a telecommunications service a person
2299 obtains by making a payment on a call-by-call basis:

- 2300 (i) through the use of a:
 - 2301 (A) bank card;
 - 2302 (B) credit card;
 - 2303 (C) debit card; or
 - 2304 (D) travel card; or
- 2305 (ii) by a charge made to a telephone number that is not associated with the origination
2306 or termination of the telecommunications service.

2307 (b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
2308 service, that would be a prepaid wireless calling service if the service were exclusively a
2309 telecommunications service.

2310 (83) "Postproduction" means an activity related to the finishing or duplication of a
2311 medium described in Subsection 59-12-104(54)(a).

2312 (84) "Prepaid calling service" means a telecommunications service:

- 2313 (a) that allows a purchaser access to telecommunications service that is exclusively
2314 telecommunications service;
- 2315 (b) that:
 - 2316 (i) is paid for in advance; and
 - 2317 (ii) enables the origination of a call using an:
 - 2318 (A) access number; or
 - 2319 (B) authorization code;
- 2320 (c) that is dialed:
 - 2321 (i) manually; or

- 2322 (ii) electronically; and
- 2323 (d) sold in predetermined units or dollars that decline:
- 2324 (i) by a known amount; and
- 2325 (ii) with use.
- 2326 (85) "Prepaid wireless calling service" means a telecommunications service:
- 2327 (a) that provides the right to utilize:
- 2328 (i) mobile wireless service; and
- 2329 (ii) other service that is not a telecommunications service, including:
- 2330 (A) the download of a product transferred electronically;
- 2331 (B) a content service; or
- 2332 (C) an ancillary service;
- 2333 (b) that:
- 2334 (i) is paid for in advance; and
- 2335 (ii) enables the origination of a call using an:
- 2336 (A) access number; or
- 2337 (B) authorization code;
- 2338 (c) that is dialed:
- 2339 (i) manually; or
- 2340 (ii) electronically; and
- 2341 (d) sold in predetermined units or dollars that decline:
- 2342 (i) by a known amount; and
- 2343 (ii) with use.
- 2344 (86) (a) "Prepared food" means:
- 2345 (i) food:
- 2346 (A) sold in a heated state; or
- 2347 (B) heated by a seller;
- 2348 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
- 2349 item; or
- 2350 (iii) except as provided in Subsection (86)(c), food sold with an eating utensil provided
- 2351 by the seller, including a:
- 2352 (A) plate;

- 2353 (B) knife;
- 2354 (C) fork;
- 2355 (D) spoon;
- 2356 (E) glass;
- 2357 (F) cup;
- 2358 (G) napkin; or
- 2359 (H) straw.
- 2360 (b) "Prepared food" does not include:
- 2361 (i) food that a seller only:
- 2362 (A) cuts;
- 2363 (B) repackages; or
- 2364 (C) pasteurizes; or
- 2365 (ii) (A) the following:
- 2366 (I) raw egg;
- 2367 (II) raw fish;
- 2368 (III) raw meat;
- 2369 (IV) raw poultry; or
- 2370 (V) a food containing an item described in Subsections (86)(b)(ii)(A)(I) through (IV);
- 2371 and
- 2372 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 2373 Food and Drug Administration's Food Code that a consumer cook the items described in
- 2374 Subsection (86)(b)(ii)(A) to prevent food borne illness; or
- 2375 (iii) the following if sold without eating utensils provided by the seller:
- 2376 (A) food and food ingredients sold by a seller if the seller's proper primary
- 2377 classification under the 2002 North American Industry Classification System of the federal
- 2378 Executive Office of the President, Office of Management and Budget, is manufacturing in
- 2379 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
- 2380 Manufacturing;
- 2381 (B) food and food ingredients sold in an unheated state:
- 2382 (I) by weight or volume; and
- 2383 (II) as a single item; or

2384 (C) a bakery item, including:

2385 (I) a bagel;

2386 (II) a bar;

2387 (III) a biscuit;

2388 (IV) bread;

2389 (V) a bun;

2390 (VI) a cake;

2391 (VII) a cookie;

2392 (VIII) a croissant;

2393 (IX) a danish;

2394 (X) a donut;

2395 (XI) a muffin;

2396 (XII) a pastry;

2397 (XIII) a pie;

2398 (XIV) a roll;

2399 (XV) a tart;

2400 (XVI) a torte; or

2401 (XVII) a tortilla.

2402 (c) Notwithstanding Subsection (86)(a)(iii), an eating utensil provided by the seller
2403 does not include the following used to transport the food:

2404 (i) a container; or

2405 (ii) packaging.

2406 (87) "Prescription" means an order, formula, or recipe that is issued:

2407 (a) (i) orally;

2408 (ii) in writing;

2409 (iii) electronically; or

2410 (iv) by any other manner of transmission; and

2411 (b) by a licensed practitioner authorized by the laws of a state.

2412 (88) (a) Except as provided in Subsection (88)(b)(ii) or (iii), "prewritten computer
2413 software" means computer software that is not designed and developed:

2414 (i) by the author or other creator of the computer software; and

- 2415 (ii) to the specifications of a specific purchaser.
- 2416 (b) "Prewritten computer software" includes:
- 2417 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
- 2418 software is not designed and developed:
- 2419 (A) by the author or other creator of the computer software; and
- 2420 (B) to the specifications of a specific purchaser;
- 2421 (ii) notwithstanding Subsection (88)(a), computer software designed and developed by
- 2422 the author or other creator of the computer software to the specifications of a specific purchaser
- 2423 if the computer software is sold to a person other than the purchaser; or
- 2424 (iii) notwithstanding Subsection (88)(a) and except as provided in Subsection (88)(c),
- 2425 prewritten computer software or a prewritten portion of prewritten computer software:
- 2426 (A) that is modified or enhanced to any degree; and
- 2427 (B) if the modification or enhancement described in Subsection (88)(b)(iii)(A) is
- 2428 designed and developed to the specifications of a specific purchaser.
- 2429 (c) Notwithstanding Subsection (88)(b)(iii), "prewritten computer software" does not
- 2430 include a modification or enhancement described in Subsection (88)(b)(iii) if the charges for
- 2431 the modification or enhancement are:
- 2432 (i) reasonable; and
- 2433 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the
- 2434 invoice or other statement of price provided to the purchaser at the time of sale or later, as
- 2435 demonstrated by:
- 2436 (A) the books and records the seller keeps at the time of the transaction in the regular
- 2437 course of business, including books and records the seller keeps at the time of the transaction in
- 2438 the regular course of business for nontax purposes;
- 2439 (B) a preponderance of the facts and circumstances at the time of the transaction; and
- 2440 (C) the understanding of all of the parties to the transaction.
- 2441 (89) (a) "Private communication service" means a telecommunications service:
- 2442 (i) that entitles a customer to exclusive or priority use of one or more communications
- 2443 channels between or among termination points; and
- 2444 (ii) regardless of the manner in which the one or more communications channels are
- 2445 connected.

2446 (b) "Private communications service" includes the following provided in connection
2447 with the use of one or more communications channels:

2448 (i) an extension line;

2449 (ii) a station;

2450 (iii) switching capacity; or

2451 (iv) another associated service that is provided in connection with the use of one or
2452 more communications channels as defined in Section 59-12-215.

2453 (90) (a) Except as provided in Subsection (90)(b), "product transferred electronically"
2454 means a product transferred electronically that would be subject to a tax under this chapter if
2455 that product was transferred in a manner other than electronically.

2456 (b) "Product transferred electronically" does not include:

2457 (i) an ancillary service;

2458 (ii) computer software; or

2459 (iii) a telecommunications service.

2460 (91) (a) "Prosthetic device" means a device that is worn on or in the body to:

2461 (i) artificially replace a missing portion of the body;

2462 (ii) prevent or correct a physical deformity or physical malfunction; or

2463 (iii) support a weak or deformed portion of the body.

2464 (b) "Prosthetic device" includes:

2465 (i) parts used in the repairs or renovation of a prosthetic device;

2466 (ii) replacement parts for a prosthetic device;

2467 (iii) a dental prosthesis; or

2468 (iv) a hearing aid.

2469 (c) "Prosthetic device" does not include:

2470 (i) corrective eyeglasses; or

2471 (ii) contact lenses.

2472 (92) (a) "Protective equipment" means an item:

2473 (i) for human wear; and

2474 (ii) that is:

2475 (A) designed as protection:

2476 (I) to the wearer against injury or disease; or

- 2477 (II) against damage or injury of other persons or property; and
- 2478 (B) not suitable for general use.
- 2479 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2480 commission shall make rules:
 - 2481 (i) listing the items that constitute "protective equipment"; and
 - 2482 (ii) that are consistent with the list of items that constitute "protective equipment"
 - 2483 under the agreement.
- 2484 (93) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
- 2485 printed matter, other than a photocopy:
 - 2486 (i) regardless of:
 - 2487 (A) characteristics;
 - 2488 (B) copyright;
 - 2489 (C) form;
 - 2490 (D) format;
 - 2491 (E) method of reproduction; or
 - 2492 (F) source; and
 - 2493 (ii) made available in printed or electronic format.
- 2494 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2495 commission may by rule define the term "photocopy."
- 2496 (94) (a) "Purchase price" and "sales price" mean the total amount of consideration:
 - 2497 (i) valued in money; and
 - 2498 (ii) for which tangible personal property, a product transferred electronically, or
 - 2499 services are:
 - 2500 (A) sold;
 - 2501 (B) leased; or
 - 2502 (C) rented.
- 2503 (b) "Purchase price" and "sales price" include:
 - 2504 (i) the seller's cost of the tangible personal property, a product transferred
 - 2505 electronically, or services sold;
 - 2506 (ii) expenses of the seller, including:
 - 2507 (A) the cost of materials used;

- 2508 (B) a labor cost;
- 2509 (C) a service cost;
- 2510 (D) interest;
- 2511 (E) a loss;
- 2512 (F) the cost of transportation to the seller; or
- 2513 (G) a tax imposed on the seller;
- 2514 (iii) a charge by the seller for any service necessary to complete the sale; or
- 2515 (iv) consideration a seller receives from a person other than the purchaser if:
- 2516 (A) (I) the seller actually receives consideration from a person other than the purchaser;
- 2517 and
- 2518 (II) the consideration described in Subsection (94)(b)(iv)(A)(I) is directly related to a
- 2519 price reduction or discount on the sale;
- 2520 (B) the seller has an obligation to pass the price reduction or discount through to the
- 2521 purchaser;
- 2522 (C) the amount of the consideration attributable to the sale is fixed and determinable by
- 2523 the seller at the time of the sale to the purchaser; and
- 2524 (D) (I) (Aa) the purchaser presents a certificate, coupon, or other documentation to the
- 2525 seller to claim a price reduction or discount; and
- 2526 (Bb) a person other than the seller authorizes, distributes, or grants the certificate,
- 2527 coupon, or other documentation with the understanding that the person other than the seller
- 2528 will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
- 2529 (II) the purchaser identifies that purchaser to the seller as a member of a group or
- 2530 organization allowed a price reduction or discount, except that a preferred customer card that is
- 2531 available to any patron of a seller does not constitute membership in a group or organization
- 2532 allowed a price reduction or discount; or
- 2533 (III) the price reduction or discount is identified as a third party price reduction or
- 2534 discount on the:
- 2535 (Aa) invoice the purchaser receives; or
- 2536 (Bb) certificate, coupon, or other documentation the purchaser presents.
- 2537 (c) "Purchase price" and "sales price" do not include:
- 2538 (i) a discount:

- 2539 (A) in a form including:
- 2540 (I) cash;
- 2541 (II) term; or
- 2542 (III) coupon;
- 2543 (B) that is allowed by a seller;
- 2544 (C) taken by a purchaser on a sale; and
- 2545 (D) that is not reimbursed by a third party; or
- 2546 (ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
- 2547 stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
- 2548 sale or later, as demonstrated by the books and records the seller keeps at the time of the
- 2549 transaction in the regular course of business, including books and records the seller keeps at the
- 2550 time of the transaction in the regular course of business for nontax purposes, by a
- 2551 preponderance of the facts and circumstances at the time of the transaction, and by the
- 2552 understanding of all of the parties to the transaction:
- 2553 (A) the following from credit extended on the sale of tangible personal property or
- 2554 services:
- 2555 (I) a carrying charge;
- 2556 (II) a financing charge; or
- 2557 (III) an interest charge;
- 2558 (B) a delivery charge;
- 2559 (C) an installation charge;
- 2560 (D) a manufacturer rebate on a motor vehicle; or
- 2561 (E) a tax or fee legally imposed directly on the consumer.
- 2562 (95) "Purchaser" means a person to whom:
- 2563 (a) a sale of tangible personal property is made;
- 2564 (b) a product is transferred electronically; or
- 2565 (c) a service is furnished.
- 2566 (96) "Regularly rented" means:
- 2567 (a) rented to a guest for value three or more times during a calendar year; or
- 2568 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 2569 value.

2570 (97) "Rental" is as defined in Subsection (54).

2571 (98) (a) Except as provided in Subsection (98)(b), "repairs or renovations of tangible
2572 personal property" means:

2573 (i) a repair or renovation of tangible personal property that is not permanently attached
2574 to real property; or

2575 (ii) attaching tangible personal property or a product transferred electronically to other
2576 tangible personal property or detaching tangible personal property or a product transferred
2577 electronically from other tangible personal property if:

2578 (A) the other tangible personal property to which the tangible personal property or
2579 product transferred electronically is attached or from which the tangible personal property or
2580 product transferred electronically is detached is not permanently attached to real property; and

2581 (B) the attachment of tangible personal property or a product transferred electronically
2582 to other tangible personal property or detachment of tangible personal property or a product
2583 transferred electronically from other tangible personal property is made in conjunction with a
2584 repair or replacement of tangible personal property or a product transferred electronically.

2585 (b) "Repairs or renovations of tangible personal property" does not include:

2586 (i) attaching prewritten computer software to other tangible personal property if the
2587 other tangible personal property to which the prewritten computer software is attached is not
2588 permanently attached to real property; or

2589 (ii) detaching prewritten computer software from other tangible personal property if the
2590 other tangible personal property from which the prewritten computer software is detached is
2591 not permanently attached to real property.

2592 (99) "Research and development" means the process of inquiry or experimentation
2593 aimed at the discovery of facts, devices, technologies, or applications and the process of
2594 preparing those devices, technologies, or applications for marketing.

2595 (100) (a) "Residential telecommunications services" means a telecommunications
2596 service or an ancillary service that is provided to an individual for personal use:

2597 (i) at a residential address; or

2598 (ii) at an institution, including a nursing home or a school, if the telecommunications
2599 service or ancillary service is provided to and paid for by the individual residing at the
2600 institution rather than the institution.

2601 (b) For purposes of Subsection (100)(a)(i), a residential address includes an:
2602 (i) apartment; or
2603 (ii) other individual dwelling unit.
2604 (101) "Residential use" means the use in or around a home, apartment building,
2605 sleeping quarters, and similar facilities or accommodations.
2606 (102) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
2607 than:
2608 (a) resale;
2609 (b) sublease; or
2610 (c) subrent.
2611 (103) (a) "Retailer" means any person engaged in a regularly organized business in
2612 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
2613 who is selling to the user or consumer and not for resale.
2614 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
2615 engaged in the business of selling to users or consumers within the state.
2616 (104) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
2617 otherwise, in any manner, of tangible personal property or any other taxable transaction under
2618 Subsection 59-12-103(1), for consideration.
2619 (b) "Sale" includes:
2620 (i) installment and credit sales;
2621 (ii) any closed transaction constituting a sale;
2622 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
2623 chapter;
2624 (iv) any transaction if the possession of property is transferred but the seller retains the
2625 title as security for the payment of the price; and
2626 (v) any transaction under which right to possession, operation, or use of any article of
2627 tangible personal property is granted under a lease or contract and the transfer of possession
2628 would be taxable if an outright sale were made.
2629 (105) "Sale at retail" is as defined in Subsection (102).
2630 (106) "Sale-leaseback transaction" means a transaction by which title to tangible
2631 personal property or a product transferred electronically that is subject to a tax under this

2632 chapter is transferred:

2633 (a) by a purchaser-lessee;

2634 (b) to a lessor;

2635 (c) for consideration; and

2636 (d) if:

2637 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

2638 of the tangible personal property or product transferred electronically;

2639 (ii) the sale of the tangible personal property or product transferred electronically to the

2640 lessor is intended as a form of financing:

2641 (A) for the tangible personal property or product transferred electronically; and

2642 (B) to the purchaser-lessee; and

2643 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

2644 is required to:

2645 (A) capitalize the tangible personal property or product transferred electronically for

2646 financial reporting purposes; and

2647 (B) account for the lease payments as payments made under a financing arrangement.

2648 (107) "Sales price" is as defined in Subsection (94).

2649 (108) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

2650 amounts charged by a school:

2651 (i) sales that are directly related to the school's educational functions or activities

2652 including:

2653 (A) the sale of:

2654 (I) textbooks;

2655 (II) textbook fees;

2656 (III) laboratory fees;

2657 (IV) laboratory supplies; or

2658 (V) safety equipment;

2659 (B) the sale of a uniform, protective equipment, or sports or recreational equipment

2660 that:

2661 (I) a student is specifically required to wear as a condition of participation in a

2662 school-related event or school-related activity; and

2663 (II) is not readily adaptable to general or continued usage to the extent that it takes the
2664 place of ordinary clothing;

2665 (C) sales of the following if the net or gross revenues generated by the sales are
2666 deposited into a school district fund or school fund dedicated to school meals:

2667 (I) food and food ingredients; or

2668 (II) prepared food; or

2669 (D) transportation charges for official school activities; or

2670 (ii) amounts paid to or amounts charged by a school for admission to a school-related
2671 event or school-related activity.

2672 (b) "Sales relating to schools" does not include:

2673 (i) bookstore sales of items that are not educational materials or supplies;

2674 (ii) except as provided in Subsection (108)(a)(i)(B):

2675 (A) clothing;

2676 (B) clothing accessories or equipment;

2677 (C) protective equipment; or

2678 (D) sports or recreational equipment; or

2679 (iii) amounts paid to or amounts charged by a school for admission to a school-related
2680 event or school-related activity if the amounts paid or charged are passed through to a person:

2681 (A) other than a:

2682 (I) school;

2683 (II) nonprofit organization authorized by a school board or a governing body of a
2684 private school to organize and direct a competitive secondary school activity; or

2685 (III) nonprofit association authorized by a school board or a governing body of a
2686 private school to organize and direct a competitive secondary school activity; and

2687 (B) that is required to collect sales and use taxes under this chapter.

2688 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2689 commission may make rules defining the term "passed through."

2690 (109) For purposes of this section and Section 59-12-104, "school":

2691 (a) means:

2692 (i) an elementary school or a secondary school that:

2693 (A) is a:

- 2694 (I) public school; or
- 2695 (II) private school; and
- 2696 (B) provides instruction for one or more grades kindergarten through 12; or
- 2697 (ii) a public school district; and
- 2698 (b) includes the Electronic High School as defined in Section 53A-15-1002.
- 2699 (110) "Seller" means a person that makes a sale, lease, or rental of:
- 2700 (a) tangible personal property;
- 2701 (b) a product transferred electronically; or
- 2702 (c) a service.
- 2703 (111) (a) "Semiconductor fabricating, processing, research, or development materials"
- 2704 means tangible personal property or a product transferred electronically if the tangible personal
- 2705 property or product transferred electronically is:
- 2706 (i) used primarily in the process of:
- 2707 (A) (I) manufacturing a semiconductor;
- 2708 (II) fabricating a semiconductor; or
- 2709 (III) research or development of a:
- 2710 (Aa) semiconductor; or
- 2711 (Bb) semiconductor manufacturing process; or
- 2712 (B) maintaining an environment suitable for a semiconductor; or
- 2713 (ii) consumed primarily in the process of:
- 2714 (A) (I) manufacturing a semiconductor;
- 2715 (II) fabricating a semiconductor; or
- 2716 (III) research or development of a:
- 2717 (Aa) semiconductor; or
- 2718 (Bb) semiconductor manufacturing process; or
- 2719 (B) maintaining an environment suitable for a semiconductor.
- 2720 (b) "Semiconductor fabricating, processing, research, or development materials"
- 2721 includes:
- 2722 (i) parts used in the repairs or renovations of tangible personal property or a product
- 2723 transferred electronically described in Subsection (111)(a); or
- 2724 (ii) a chemical, catalyst, or other material used to:

2725 (A) produce or induce in a semiconductor a:

2726 (I) chemical change; or

2727 (II) physical change;

2728 (B) remove impurities from a semiconductor; or

2729 (C) improve the marketable condition of a semiconductor.

2730 (112) "Senior citizen center" means a facility having the primary purpose of providing
2731 services to the aged as defined in Section 62A-3-101.

2732 (113) "Short-term lodging" means tourist home, cottage, hotel, motel, or trailer court
2733 accommodations and services that are regularly rented for less than 30 consecutive days.

2734 (114) (a) "Short-term lodging charge" means the full retail price charged for the sale,
2735 use, or possession of short-term lodging.

2736 (b) "Short-term lodging charge":

2737 (i) includes any short-term lodging intermediary charge;

2738 (ii) includes any other tangible personal property, product, or service, except for air
2739 transportation or a vehicle rental, that is:

2740 (A) purchased as part of a transaction that includes the purchase of short-term lodging;
2741 and

2742 (B) included, but not separately stated, on the invoice, bill of sale, or similar document
2743 provided to the purchaser of the short-term lodging; and

2744 (iii) excludes tax.

2745 (115) "Short-term lodging intermediary" means a person who:

2746 (a) is not a short-term lodging operator;

2747 (b) facilitates the sale, use, or possession of short-term lodging, including brokering,
2748 coordinating, or in any other way arranging for the purchase, sale, use, or possession of
2749 short-term lodging by the general public; and

2750 (c) charges a short-term lodging charge to a purchaser.

2751 (116) (a) "Short-term lodging intermediary charge" means an amount charged by a
2752 short-term lodging intermediary:

2753 (i) to the purchaser of short-term lodging for facilitating the sale, use, or possession of
2754 the short-term lodging; and

2755 (ii) regardless of how the amount is characterized.

2756 (b) "Short-term lodging intermediary charge" does not include a commission paid
2757 directly by a short-term lodging operator to a person for facilitating the sale, use, or possession
2758 of short-term lodging.

2759 (117) (a) "Short-term lodging operator" means a person who:

2760 (i) owns, operates, or manages short-term lodging; and

2761 (ii) makes short-term lodging available to purchasers for compensation.

2762 (b) "Short-term lodging operator" does not include:

2763 (i) a travel agent who does not own, operate, or manage short-term lodging; or

2764 (ii) another person who:

2765 (A) does not own, operate, or manage short-term lodging; and

2766 (B) arranges, books, brokers, coordinates, or facilitates a transaction involving
2767 short-term lodging between a purchaser and a person who owns, operates, or manages
2768 short-term lodging.

2769 (118) "Short-term lodging operator charge" means the difference between the
2770 short-term lodging charge and the short-term lodging intermediary charge.

2771 [~~(113)~~] (119) "Simplified electronic return" means the electronic return:

2772 (a) described in Section 318(C) of the agreement; and

2773 (b) approved by the governing board of the agreement.

2774 [~~(114)~~] (120) "Solar energy" means the sun used as the sole source of energy for
2775 producing electricity.

2776 [~~(115)~~] (121) (a) "Sports or recreational equipment" means an item:

2777 (i) designed for human use; and

2778 (ii) that is:

2779 (A) worn in conjunction with:

2780 (I) an athletic activity; or

2781 (II) a recreational activity; and

2782 (B) not suitable for general use.

2783 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2784 commission shall make rules:

2785 (i) listing the items that constitute "sports or recreational equipment"; and

2786 (ii) that are consistent with the list of items that constitute "sports or recreational

2787 equipment" under the agreement.

2788 [~~(116)~~] (122) "State" means the state of Utah, its departments, and agencies.

2789 [~~(117)~~] (123) "Storage" means any keeping or retention of tangible personal property or
2790 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
2791 except sale in the regular course of business.

2792 [~~(118)~~] (124) (a) Except as provided in Subsection [~~(118)~~] (124)(d) or (e), "tangible
2793 personal property" means personal property that:

2794 (i) may be:

2795 (A) seen;

2796 (B) weighed;

2797 (C) measured;

2798 (D) felt; or

2799 (E) touched; or

2800 (ii) is in any manner perceptible to the senses.

2801 (b) "Tangible personal property" includes:

2802 (i) electricity;

2803 (ii) water;

2804 (iii) gas;

2805 (iv) steam; or

2806 (v) prewritten computer software, regardless of the manner in which the prewritten
2807 computer software is transferred.

2808 (c) "Tangible personal property" includes the following regardless of whether the item
2809 is attached to real property:

2810 (i) a dishwasher;

2811 (ii) a dryer;

2812 (iii) a freezer;

2813 (iv) a microwave;

2814 (v) a refrigerator;

2815 (vi) a stove;

2816 (vii) a washer; or

2817 (viii) an item similar to Subsections [~~(118)~~] (124)(c)(i) through (vii) as determined by

2818 the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2819 Rulemaking Act.

2820 (d) "Tangible personal property" does not include a product that is transferred
2821 electronically.

2822 (e) "Tangible personal property" does not include the following if attached to real
2823 property, regardless of whether the attachment to real property is only through a line that
2824 supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the
2825 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
2826 Rulemaking Act:

- 2827 (i) a hot water heater;
- 2828 (ii) a water filtration system; or
- 2829 (iii) a water softener system.

2830 [~~(119)~~] (125) (a) "Telecommunications enabling or facilitating equipment, machinery,
2831 or software" means an item listed in Subsection [~~(119)~~] (125)(b) if that item is purchased or
2832 leased primarily to enable or facilitate one or more of the following to function:

- 2833 (i) telecommunications switching or routing equipment, machinery, or software; or
- 2834 (ii) telecommunications transmission equipment, machinery, or software.

2835 (b) The following apply to Subsection [~~(119)~~] (125)(a):

- 2836 (i) a pole;
- 2837 (ii) software;
- 2838 (iii) a supplementary power supply;
- 2839 (iv) temperature or environmental equipment or machinery;
- 2840 (v) test equipment;
- 2841 (vi) a tower; or

2842 (vii) equipment, machinery, or software that functions similarly to an item listed in
2843 Subsections [~~(119)~~] (125)(b)(i) through (vi) as determined by the commission by rule made in
2844 accordance with Subsection [~~(119)~~] (125)(c).

2845 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2846 commission may by rule define what constitutes equipment, machinery, or software that
2847 functions similarly to an item listed in Subsections [~~(119)~~] (125)(b)(i) through (vi).

2848 [~~(120)~~] (126) "Telecommunications equipment, machinery, or software required for

2849 911 service" means equipment, machinery, or software that is required to comply with 47
2850 C.F.R. Sec. 20.18.

2851 ~~[(121)]~~ (127) "Telecommunications maintenance or repair equipment, machinery, or
2852 software" means equipment, machinery, or software purchased or leased primarily to maintain
2853 or repair one or more of the following, regardless of whether the equipment, machinery, or
2854 software is purchased or leased as a spare part or as an upgrade or modification to one or more
2855 of the following:

2856 (a) telecommunications enabling or facilitating equipment, machinery, or software;

2857 (b) telecommunications switching or routing equipment, machinery, or software; or

2858 (c) telecommunications transmission equipment, machinery, or software.

2859 ~~[(122)]~~ (128) (a) "Telecommunications service" means the electronic conveyance,
2860 routing, or transmission of audio, data, video, voice, or any other information or signal to a
2861 point, or among or between points.

2862 (b) "Telecommunications service" includes:

2863 (i) an electronic conveyance, routing, or transmission with respect to which a computer
2864 processing application is used to act:

2865 (A) on the code, form, or protocol of the content;

2866 (B) for the purpose of electronic conveyance, routing, or transmission; and

2867 (C) regardless of whether the service:

2868 (I) is referred to as voice over Internet protocol service; or

2869 (II) is classified by the Federal Communications Commission as enhanced or value
2870 added;

2871 (ii) an 800 service;

2872 (iii) a 900 service;

2873 (iv) a fixed wireless service;

2874 (v) a mobile wireless service;

2875 (vi) a postpaid calling service;

2876 (vii) a prepaid calling service;

2877 (viii) a prepaid wireless calling service; or

2878 (ix) a private communications service.

2879 (c) "Telecommunications service" does not include:

- 2880 (i) advertising, including directory advertising;
- 2881 (ii) an ancillary service;
- 2882 (iii) a billing and collection service provided to a third party;
- 2883 (iv) a data processing and information service if:
 - 2884 (A) the data processing and information service allows data to be:
 - 2885 (I) (Aa) acquired;
 - 2886 (Bb) generated;
 - 2887 (Cc) processed;
 - 2888 (Dd) retrieved; or
 - 2889 (Ee) stored; and
 - 2890 (II) delivered by an electronic transmission to a purchaser; and
 - 2891 (B) the purchaser's primary purpose for the underlying transaction is the processed data
 - 2892 or information;
- 2893 (v) installation or maintenance of the following on a customer's premises:
 - 2894 (A) equipment; or
 - 2895 (B) wiring;
 - 2896 (vi) Internet access service;
 - 2897 (vii) a paging service;
 - 2898 (viii) a product transferred electronically, including:
 - 2899 (A) music;
 - 2900 (B) reading material;
 - 2901 (C) a ring tone;
 - 2902 (D) software; or
 - 2903 (E) video;
 - 2904 (ix) a radio and television audio and video programming service:
 - 2905 (A) regardless of the medium; and
 - 2906 (B) including:
 - 2907 (I) furnishing conveyance, routing, or transmission of a television audio and video
 - 2908 programming service by a programming service provider;
 - 2909 (II) cable service as defined in 47 U.S.C. Sec. 522(6); or
 - 2910 (III) audio and video programming services delivered by a commercial mobile radio

2911 service provider as defined in 47 C.F.R. Sec. 20.3;

2912 (x) a value-added nonvoice data service; or

2913 (xi) tangible personal property.

2914 ~~[(123)]~~ (129) (a) "Telecommunications service provider" means a person that:

2915 (i) owns, controls, operates, or manages a telecommunications service; and

2916 (ii) engages in an activity described in Subsection ~~[(123)]~~ (129)(a)(i) for the shared use

2917 with or resale to any person of the telecommunications service.

2918 (b) A person described in Subsection ~~[(123)]~~ (129)(a) is a telecommunications service

2919 provider whether or not the Public Service Commission of Utah regulates:

2920 (i) that person; or

2921 (ii) the telecommunications service that the person owns, controls, operates, or

2922 manages.

2923 ~~[(124)]~~ (130) (a) "Telecommunications switching or routing equipment, machinery, or

2924 software" means an item listed in Subsection ~~[(124)]~~ (130)(b) if that item is purchased or

2925 leased primarily for switching or routing:

2926 (i) an ancillary service;

2927 (ii) data communications;

2928 (iii) voice communications; or

2929 (iv) telecommunications service.

2930 (b) The following apply to Subsection ~~[(124)]~~ (130)(a):

2931 (i) a bridge;

2932 (ii) a computer;

2933 (iii) a cross connect;

2934 (iv) a modem;

2935 (v) a multiplexer;

2936 (vi) plug in circuitry;

2937 (vii) a router;

2938 (viii) software;

2939 (ix) a switch; or

2940 (x) equipment, machinery, or software that functions similarly to an item listed in

2941 Subsections ~~[(124)]~~ (130)(b)(i) through (ix) as determined by the commission by rule made in

2942 accordance with Subsection [~~(124)~~] (130)(c).

2943 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2944 commission may by rule define what constitutes equipment, machinery, or software that
2945 functions similarly to an item listed in Subsections [~~(124)~~] (130)(b)(i) through (ix).

2946 [~~(125)~~] (131) (a) "Telecommunications transmission equipment, machinery, or
2947 software" means an item listed in Subsection [~~(125)~~] (131)(b) if that item is purchased or
2948 leased primarily for sending, receiving, or transporting:

2949 (i) an ancillary service;

2950 (ii) data communications;

2951 (iii) voice communications; or

2952 (iv) telecommunications service.

2953 (b) The following apply to Subsection [~~(125)~~] (131)(a):

2954 (i) an amplifier;

2955 (ii) a cable;

2956 (iii) a closure;

2957 (iv) a conduit;

2958 (v) a controller;

2959 (vi) a duplexer;

2960 (vii) a filter;

2961 (viii) an input device;

2962 (ix) an input/output device;

2963 (x) an insulator;

2964 (xi) microwave machinery or equipment;

2965 (xii) an oscillator;

2966 (xiii) an output device;

2967 (xiv) a pedestal;

2968 (xv) a power converter;

2969 (xvi) a power supply;

2970 (xvii) a radio channel;

2971 (xviii) a radio receiver;

2972 (xix) a radio transmitter;

- 2973 (xx) a repeater;
- 2974 (xxi) software;
- 2975 (xxii) a terminal;
- 2976 (xxiii) a timing unit;
- 2977 (xxiv) a transformer;
- 2978 (xxv) a wire; or
- 2979 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
- 2980 Subsections [~~(125)~~] (131)(b)(i) through (xxv) as determined by the commission by rule made in
- 2981 accordance with Subsection [~~(125)~~] (131)(c).
- 2982 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2983 commission may by rule define what constitutes equipment, machinery, or software that
- 2984 functions similarly to an item listed in Subsections [~~(125)~~] (131)(b)(i) through (xxv).
- 2985 [~~(126)~~] (132) (a) "Textbook for a higher education course" means a textbook or other
- 2986 printed material that is required for a course:
- 2987 (i) offered by an institution of higher education; and
- 2988 (ii) that the purchaser of the textbook or other printed material attends or will attend.
- 2989 (b) "Textbook for a higher education course" includes a textbook in electronic format.
- 2990 (133) "Travel package" means short-term lodging sold with the following for a single
- 2991 retail price:
- 2992 (a) air transportation; or
- 2993 (b) a vehicle rental.
- 2994 [~~(127)~~] (134) "Tobacco" means:
- 2995 (a) a cigarette;
- 2996 (b) a cigar;
- 2997 (c) chewing tobacco;
- 2998 (d) pipe tobacco; or
- 2999 (e) any other item that contains tobacco.
- 3000 [~~(128)~~] (135) "Unassisted amusement device" means an amusement device, skill
- 3001 device, or ride device that is started and stopped by the purchaser or renter of the right to use or
- 3002 operate the amusement device, skill device, or ride device.
- 3003 [~~(129)~~] (136) (a) "Use" means the exercise of any right or power over tangible personal

3004 property, a product transferred electronically, or a service under Subsection 59-12-103(1),
3005 incident to the ownership or the leasing of that tangible personal property, product transferred
3006 electronically, or service.

3007 (b) "Use" does not include the sale, display, demonstration, or trial of tangible personal
3008 property, a product transferred electronically, or a service in the regular course of business and
3009 held for resale.

3010 [~~130~~] (137) "Value-added nonvoice data service" means a service:

3011 (a) that otherwise meets the definition of a telecommunications service except that a
3012 computer processing application is used to act primarily for a purpose other than conveyance,
3013 routing, or transmission; and

3014 (b) with respect to which a computer processing application is used to act on data or
3015 information:

- 3016 (i) code;
- 3017 (ii) content;
- 3018 (iii) form; or
- 3019 (iv) protocol.

3020 [~~131~~] (138) (a) Subject to Subsection [~~131~~] (138)(b), "vehicle" means the following
3021 that are required to be titled, registered, or titled and registered:

- 3022 (i) an aircraft as defined in Section 72-10-102;
- 3023 (ii) a vehicle as defined in Section 41-1a-102;
- 3024 (iii) an off-highway vehicle as defined in Section 41-22-2; or
- 3025 (iv) a vessel as defined in Section 41-1a-102.

3026 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

- 3027 (i) a vehicle described in Subsection [~~131~~] (138)(a); or
- 3028 (ii) (A) a locomotive;
- 3029 (B) a freight car;
- 3030 (C) railroad work equipment; or
- 3031 (D) other railroad rolling stock.

3032 [~~132~~] (139) "Vehicle dealer" means a person engaged in the business of buying,
3033 selling, or exchanging a vehicle as defined in Subsection [~~131~~] (138).

3034 [~~133~~] (140) (a) "Vertical service" means an ancillary service that:

- 3035 (i) is offered in connection with one or more telecommunications services; and
 3036 (ii) offers an advanced calling feature that allows a customer to:
 3037 (A) identify a caller; and
 3038 (B) manage multiple calls and call connections.
 3039 (b) "Vertical service" includes an ancillary service that allows a customer to manage a
 3040 conference bridging service.

3041 [~~(134)~~] (141) (a) "Voice mail service" means an ancillary service that enables a
 3042 customer to receive, send, or store a recorded message.

3043 (b) "Voice mail service" does not include a vertical service that a customer is required
 3044 to have in order to utilize a voice mail service.

3045 [~~(135)~~] (142) (a) Except as provided in Subsection [~~(135)~~] (142)(b), "waste energy
 3046 facility" means a facility that generates electricity:

3047 (i) using as the primary source of energy waste materials that would be placed in a
 3048 landfill or refuse pit if it were not used to generate electricity, including:

3049 (A) tires;

3050 (B) waste coal;

3051 (C) oil shale; or

3052 (D) municipal solid waste; and

3053 (ii) in amounts greater than actually required for the operation of the facility.

3054 (b) "Waste energy facility" does not include a facility that incinerates:

3055 (i) hospital waste as defined in 40 C.F.R. 60.51c; or

3056 (ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

3057 [~~(136)~~] (143) "Watercraft" means a vessel as defined in Section 73-18-2.

3058 [~~(137)~~] (144) "Wind energy" means wind used as the sole source of energy to produce
 3059 electricity.

3060 [~~(138)~~] (145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a
 3061 geographic location by the United States Postal Service.

3062 Section 3. Section **59-12-103 (Superseded 07/01/14)** is amended to read:

3063 **59-12-103 (Superseded 07/01/14). Sales and use tax base -- Rates -- Effective dates**
 3064 **-- Use of sales and use tax revenues.**

3065 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or

3066 charged for the following transactions:

3067 (a) retail sales of tangible personal property made within the state;

3068 (b) amounts paid for:

3069 (i) telecommunications service, other than mobile telecommunications service, that

3070 originates and terminates within the boundaries of this state;

3071 (ii) mobile telecommunications service that originates and terminates within the

3072 boundaries of one state only to the extent permitted by the Mobile Telecommunications

3073 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3074 (iii) an ancillary service associated with a:

3075 (A) telecommunications service described in Subsection (1)(b)(i); or

3076 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3077 (c) sales of the following for commercial use:

3078 (i) gas;

3079 (ii) electricity;

3080 (iii) heat;

3081 (iv) coal;

3082 (v) fuel oil; or

3083 (vi) other fuels;

3084 (d) sales of the following for residential use:

3085 (i) gas;

3086 (ii) electricity;

3087 (iii) heat;

3088 (iv) coal;

3089 (v) fuel oil; or

3090 (vi) other fuels;

3091 (e) sales of prepared food;

3092 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or

3093 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

3094 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,

3095 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit

3096 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf

3097 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
3098 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
3099 horseback rides, sports activities, or any other amusement, entertainment, recreation,
3100 exhibition, cultural, or athletic activity;

3101 (g) amounts paid or charged for services for repairs or renovations of tangible personal
3102 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

3103 (i) the tangible personal property; and

3104 (ii) parts used in the repairs or renovations of the tangible personal property described
3105 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
3106 of that tangible personal property;

3107 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
3108 assisted cleaning or washing of tangible personal property;

3109 (i) subject to Subsection 59-12-107(3)(i), amounts paid or charged for [tourist home,
3110 ~~hotel, motel, or trailer court accommodations and services that are regularly rented for less than~~
3111 ~~30 consecutive days]~~ short-term lodging;

3112 (j) amounts paid or charged for laundry or dry cleaning services;

3113 (k) amounts paid or charged for leases or rentals of tangible personal property if within
3114 this state the tangible personal property is:

3115 (i) stored;

3116 (ii) used; or

3117 (iii) otherwise consumed;

3118 (l) amounts paid or charged for tangible personal property if within this state the
3119 tangible personal property is:

3120 (i) stored;

3121 (ii) used; or

3122 (iii) consumed; and

3123 (m) amounts paid or charged for a sale:

3124 (i) (A) of a product transferred electronically; or

3125 (B) of a repair or renovation of a product transferred electronically; and

3126 (ii) regardless of whether the sale provides:

3127 (A) a right of permanent use of the product; or

3128 (B) a right to use the product that is less than a permanent use, including a right:

3129 (I) for a definite or specified length of time; and

3130 (II) that terminates upon the occurrence of a condition.

3131 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

3132 is imposed on a transaction described in Subsection (1) equal to the sum of:

3133 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3134 (A) 4.70%; and

3135 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

3136 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3137 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

3138 State Sales and Use Tax Act; and

3139 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

3140 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3141 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

3142 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3143 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3144 transaction under this chapter other than this part.

3145 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

3146 on a transaction described in Subsection (1)(d) equal to the sum of:

3147 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3148 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3149 transaction under this chapter other than this part.

3150 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

3151 on amounts paid or charged for food and food ingredients equal to the sum of:

3152 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at

3153 a tax rate of 1.75%; and

3154 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

3155 amounts paid or charged for food and food ingredients under this chapter other than this part.

3156 (d) (i) For a bundled transaction that is attributable to food and food ingredients and

3157 tangible personal property other than food and food ingredients, a state tax and a local tax is

3158 imposed on the entire bundled transaction equal to the sum of:

- 3159 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
- 3160 (I) the tax rate described in Subsection (2)(a)(i)(A); and
- 3161 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
- 3162 Sales and Use Tax Act, if the location of the transaction as determined under Sections
- 3163 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
- 3164 Additional State Sales and Use Tax Act; and
- 3165 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
- 3166 Sales and Use Tax Act, if the location of the transaction as determined under Sections
- 3167 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
- 3168 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 3169 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
- 3170 described in Subsection (2)(a)(ii).
- 3171 (ii) If an optional computer software maintenance contract is a bundled transaction that
- 3172 consists of taxable and nontaxable products that are not separately itemized on an invoice or
- 3173 similar billing document, the purchase of the optional computer software maintenance contract
- 3174 is 40% taxable under this chapter and 60% nontaxable under this chapter.
- 3175 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
- 3176 transaction described in Subsection (2)(d)(i) or (ii):
- 3177 (A) if the sales price of the bundled transaction is attributable to tangible personal
- 3178 property, a product, or a service that is subject to taxation under this chapter and tangible
- 3179 personal property, a product, or service that is not subject to taxation under this chapter, the
- 3180 entire bundled transaction is subject to taxation under this chapter unless:
- 3181 (I) the seller is able to identify by reasonable and verifiable standards the tangible
- 3182 personal property, product, or service that is not subject to taxation under this chapter from the
- 3183 books and records the seller keeps in the seller's regular course of business; or
- 3184 (II) state or federal law provides otherwise; or
- 3185 (B) if the sales price of a bundled transaction is attributable to two or more items of
- 3186 tangible personal property, products, or services that are subject to taxation under this chapter
- 3187 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
- 3188 higher tax rate unless:
- 3189 (I) the seller is able to identify by reasonable and verifiable standards the tangible

3190 personal property, product, or service that is subject to taxation under this chapter at the lower
3191 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3192 (II) state or federal law provides otherwise.

3193 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3194 seller's regular course of business includes books and records the seller keeps in the regular
3195 course of business for nontax purposes.

3196 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
3197 rate imposed under the following shall take effect on the first day of a calendar quarter:

3198 (i) Subsection (2)(a)(i)(A);

3199 (ii) Subsection (2)(b)(i);

3200 (iii) Subsection (2)(c)(i); or

3201 (iv) Subsection (2)(d)(i)(A)(I).

3202 (f) (i) A tax rate increase takes effect on the first day of the first billing period that
3203 begins on or after the effective date of the tax rate increase if the billing period for the
3204 transaction begins before the effective date of a tax rate increase imposed under:

3205 (A) Subsection (2)(a)(i)(A);

3206 (B) Subsection (2)(b)(i);

3207 (C) Subsection (2)(c)(i); or

3208 (D) Subsection (2)(d)(i)(A)(I).

3209 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3210 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3211 or the tax rate decrease imposed under:

3212 (A) Subsection (2)(a)(i)(A);

3213 (B) Subsection (2)(b)(i);

3214 (C) Subsection (2)(c)(i); or

3215 (D) Subsection (2)(d)(i)(A)(I).

3216 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
3217 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
3218 or change in a tax rate takes effect:

3219 (A) on the first day of a calendar quarter; and

3220 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

- 3221 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
- 3222 (A) Subsection (2)(a)(i)(A);
- 3223 (B) Subsection (2)(b)(i);
- 3224 (C) Subsection (2)(c)(i); or
- 3225 (D) Subsection (2)(d)(i)(A)(I).
- 3226 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 3227 the commission may by rule define the term "catalogue sale."
- 3228 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3229 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3230 (ii) the tax imposed by Subsection (2)(b)(i);
- 3231 (iii) the tax imposed by Subsection (2)(c)(i); or
- 3232 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 3233 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 3234 in this chapter:
- 3235 (i) the tax imposed by Subsection (2)(a)(ii);
- 3236 (ii) the tax imposed by Subsection (2)(b)(ii);
- 3237 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 3238 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 3239 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 3240 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
- 3241 through (g):
- 3242 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 3243 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 3244 (B) for the fiscal year; or
- 3245 (ii) \$17,500,000.
- 3246 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 3247 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 3248 Department of Natural Resources to:
- 3249 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 3250 protect sensitive plant and animal species; or
- 3251 (B) award grants, up to the amount authorized by the Legislature in an appropriations

3252 act, to political subdivisions of the state to implement the measures described in Subsections
3253 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

3254 (ii) Money transferred to the Department of Natural Resources under Subsection
3255 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3256 person to list or attempt to have listed a species as threatened or endangered under the
3257 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

3258 (iii) At the end of each fiscal year:

3259 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3260 Conservation and Development Fund created in Section 73-10-24;

3261 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3262 Program Subaccount created in Section 73-10c-5; and

3263 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3264 Program Subaccount created in Section 73-10c-5.

3265 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3266 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3267 created in Section 4-18-6.

3268 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3269 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3270 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3271 water rights.

3272 (ii) At the end of each fiscal year:

3273 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3274 Conservation and Development Fund created in Section 73-10-24;

3275 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3276 Program Subaccount created in Section 73-10c-5; and

3277 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3278 Program Subaccount created in Section 73-10c-5.

3279 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3280 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3281 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3282 (ii) In addition to the uses allowed of the Water Resources Conservation and

3283 Development Fund under Section 73-10-24, the Water Resources Conservation and
3284 Development Fund may also be used to:

3285 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3286 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3287 quantifying surface and ground water resources and describing the hydrologic systems of an
3288 area in sufficient detail so as to enable local and state resource managers to plan for and
3289 accommodate growth in water use without jeopardizing the resource;

3290 (B) fund state required dam safety improvements; and

3291 (C) protect the state's interest in interstate water compact allocations, including the
3292 hiring of technical and legal staff.

3293 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3294 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3295 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3296 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3297 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3298 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3299 (i) provide for the installation and repair of collection, treatment, storage, and
3300 distribution facilities for any public water system, as defined in Section 19-4-102;

3301 (ii) develop underground sources of water, including springs and wells; and

3302 (iii) develop surface water sources.

3303 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3304 2006, the difference between the following amounts shall be expended as provided in this
3305 Subsection (5), if that difference is greater than \$1:

3306 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3307 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3308 (ii) \$17,500,000.

3309 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3310 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3311 credits; and

3312 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3313 restoration.

3314 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3315 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3316 created in Section 73-10-24.

3317 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3318 remaining difference described in Subsection (5)(a) shall be:

3319 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3320 credits; and

3321 (B) expended by the Division of Water Resources for cloud-seeding projects
3322 authorized by Title 73, Chapter 15, Modification of Weather.

3323 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3324 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
3325 created in Section 73-10-24.

3326 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3327 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3328 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3329 Division of Water Resources for:

3330 (i) preconstruction costs:

3331 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3332 26, Bear River Development Act; and

3333 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3334 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3335 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3336 Chapter 26, Bear River Development Act;

3337 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3338 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3339 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3340 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3341 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3342 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
3343 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3344 incurred for employing additional technical staff for the administration of water rights.

3345 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3346 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3347 Fund created in Section 73-10-24.

3348 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3349 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3350 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3351 the Transportation Fund created by Section 72-2-102.

3352 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3353 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
3354 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
3355 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3356 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3357 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
3358 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3359 created by Section 72-2-124:

3360 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3361 the revenues collected from the following taxes, which represents a portion of the
3362 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
3363 on vehicles and vehicle-related products:

3364 (A) the tax imposed by Subsection (2)(a)(i)(A);

3365 (B) the tax imposed by Subsection (2)(b)(i);

3366 (C) the tax imposed by Subsection (2)(c)(i); and

3367 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3368 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
3369 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
3370 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
3371 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3372 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
3373 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
3374 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
3375 generated in the current fiscal year than the total percentage of sales and use taxes deposited in

3376 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3377 (8)(a) equal to the product of:

3378 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
3379 previous fiscal year; and

3380 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3381 (8)(a)(i)(A) through (D) in the current fiscal year.

3382 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3383 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
3384 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
3385 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3386 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

3387 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3388 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
3389 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
3390 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
3391 current fiscal year under Subsection (8)(a).

3392 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3393 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
3394 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
3395 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
3396 72-2-124.

3397 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3398 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3399 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3400 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
3401 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
3402 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3403 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
3404 transactions described in Subsection (1).

3405 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
3406 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or

3407 charged for food and food ingredients, except for tax revenue generated by a bundled
3408 transaction attributable to food and food ingredients and tangible personal property other than
3409 food and food ingredients described in Subsection (2)(d).

3410 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
3411 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
3412 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3413 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3414 chokepoints in construction management.

3415 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
3416 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
3417 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
3418 and food ingredients and tangible personal property other than food and food ingredients
3419 described in Subsection (2)(d).

3420 Section 4. Section **59-12-103 (Effective 07/01/14)** is amended to read:

3421 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
3422 **Use of sales and use tax revenues.**

3423 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
3424 charged for the following transactions:

3425 (a) retail sales of tangible personal property made within the state;

3426 (b) amounts paid for:

3427 (i) telecommunications service, other than mobile telecommunications service, that
3428 originates and terminates within the boundaries of this state;

3429 (ii) mobile telecommunications service that originates and terminates within the
3430 boundaries of one state only to the extent permitted by the Mobile Telecommunications

3431 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

3432 (iii) an ancillary service associated with a:

3433 (A) telecommunications service described in Subsection (1)(b)(i); or

3434 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

3435 (c) sales of the following for commercial use:

3436 (i) gas;

3437 (ii) electricity;

- 3438 (iii) heat;
- 3439 (iv) coal;
- 3440 (v) fuel oil; or
- 3441 (vi) other fuels;
- 3442 (d) sales of the following for residential use:
 - 3443 (i) gas;
 - 3444 (ii) electricity;
 - 3445 (iii) heat;
 - 3446 (iv) coal;
 - 3447 (v) fuel oil; or
 - 3448 (vi) other fuels;
- 3449 (e) sales of prepared food;
- 3450 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 3451 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 3452 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 3453 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 3454 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 3455 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 3456 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 3457 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 3458 exhibition, cultural, or athletic activity;
- 3459 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 3460 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - 3461 (i) the tangible personal property; and
 - 3462 (ii) parts used in the repairs or renovations of the tangible personal property described
 - 3463 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
 - 3464 of that tangible personal property;
- 3465 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 3466 assisted cleaning or washing of tangible personal property;
 - 3467 (i) subject to Subsection 59-12-107(3)(i), amounts paid or charged for ~~tourist home,~~
 - 3468 ~~hotel, motel, or trailer court accommodations and services that are regularly rented for less than~~

3469 ~~30 consecutive days]~~ short-term lodging;

3470 (j) amounts paid or charged for laundry or dry cleaning services;

3471 (k) amounts paid or charged for leases or rentals of tangible personal property if within

3472 this state the tangible personal property is:

3473 (i) stored;

3474 (ii) used; or

3475 (iii) otherwise consumed;

3476 (l) amounts paid or charged for tangible personal property if within this state the

3477 tangible personal property is:

3478 (i) stored;

3479 (ii) used; or

3480 (iii) consumed; and

3481 (m) amounts paid or charged for a sale:

3482 (i) (A) of a product transferred electronically; or

3483 (B) of a repair or renovation of a product transferred electronically; and

3484 (ii) regardless of whether the sale provides:

3485 (A) a right of permanent use of the product; or

3486 (B) a right to use the product that is less than a permanent use, including a right:

3487 (I) for a definite or specified length of time; and

3488 (II) that terminates upon the occurrence of a condition.

3489 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

3490 is imposed on a transaction described in Subsection (1) equal to the sum of:

3491 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

3492 (A) 4.70%; and

3493 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

3494 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3495 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional

3496 State Sales and Use Tax Act; and

3497 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

3498 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211

3499 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state

3500 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3501 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3502 transaction under this chapter other than this part.

3503 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3504 on a transaction described in Subsection (1)(d) equal to the sum of:

3505 (i) a state tax imposed on the transaction at a tax rate of 2%; and

3506 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3507 transaction under this chapter other than this part.

3508 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
3509 on amounts paid or charged for food and food ingredients equal to the sum of:

3510 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
3511 a tax rate of 1.75%; and

3512 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
3513 amounts paid or charged for food and food ingredients under this chapter other than this part.

3514 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
3515 tangible personal property other than food and food ingredients, a state tax and a local tax is
3516 imposed on the entire bundled transaction equal to the sum of:

3517 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

3518 (I) the tax rate described in Subsection (2)(a)(i)(A); and

3519 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
3520 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3521 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
3522 Additional State Sales and Use Tax Act; and

3523 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
3524 Sales and Use Tax Act, if the location of the transaction as determined under Sections
3525 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
3526 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

3527 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
3528 described in Subsection (2)(a)(ii).

3529 (ii) If an optional computer software maintenance contract is a bundled transaction that
3530 consists of taxable and nontaxable products that are not separately itemized on an invoice or

3531 similar billing document, the purchase of the optional computer software maintenance contract
3532 is 40% taxable under this chapter and 60% nontaxable under this chapter.

3533 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
3534 transaction described in Subsection (2)(d)(i) or (ii):

3535 (A) if the sales price of the bundled transaction is attributable to tangible personal
3536 property, a product, or a service that is subject to taxation under this chapter and tangible
3537 personal property, a product, or service that is not subject to taxation under this chapter, the
3538 entire bundled transaction is subject to taxation under this chapter unless:

3539 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3540 personal property, product, or service that is not subject to taxation under this chapter from the
3541 books and records the seller keeps in the seller's regular course of business; or

3542 (II) state or federal law provides otherwise; or

3543 (B) if the sales price of a bundled transaction is attributable to two or more items of
3544 tangible personal property, products, or services that are subject to taxation under this chapter
3545 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
3546 higher tax rate unless:

3547 (I) the seller is able to identify by reasonable and verifiable standards the tangible
3548 personal property, product, or service that is subject to taxation under this chapter at the lower
3549 tax rate from the books and records the seller keeps in the seller's regular course of business; or

3550 (II) state or federal law provides otherwise.

3551 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
3552 seller's regular course of business includes books and records the seller keeps in the regular
3553 course of business for nontax purposes.

3554 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
3555 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
3556 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
3557 of tangible personal property, other property, a product, or a service that is not subject to
3558 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
3559 the seller, at the time of the transaction:

3560 (A) separately states the portion of the transaction that is not subject to taxation under
3561 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

3562 (B) is able to identify by reasonable and verifiable standards, from the books and
3563 records the seller keeps in the seller's regular course of business, the portion of the transaction
3564 that is not subject to taxation under this chapter.

3565 (ii) A purchaser and a seller may correct the taxability of a transaction if:

3566 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
3567 the transaction that is not subject to taxation under this chapter was not separately stated on an
3568 invoice, bill of sale, or similar document provided to the purchaser because of an error or
3569 ignorance of the law; and

3570 (B) the seller is able to identify by reasonable and verifiable standards, from the books
3571 and records the seller keeps in the seller's regular course of business, the portion of the
3572 transaction that is not subject to taxation under this chapter.

3573 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
3574 in the seller's regular course of business includes books and records the seller keeps in the
3575 regular course of business for nontax purposes.

3576 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
3577 personal property, products, or services that are subject to taxation under this chapter at
3578 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
3579 unless the seller, at the time of the transaction:

3580 (A) separately states the items subject to taxation under this chapter at each of the
3581 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

3582 (B) is able to identify by reasonable and verifiable standards the tangible personal
3583 property, product, or service that is subject to taxation under this chapter at the lower tax rate
3584 from the books and records the seller keeps in the seller's regular course of business.

3585 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
3586 seller's regular course of business includes books and records the seller keeps in the regular
3587 course of business for nontax purposes.

3588 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
3589 rate imposed under the following shall take effect on the first day of a calendar quarter:

3590 (i) Subsection (2)(a)(i)(A);

3591 (ii) Subsection (2)(b)(i);

3592 (iii) Subsection (2)(c)(i); or

- 3593 (iv) Subsection (2)(d)(i)(A)(I).
- 3594 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
3595 begins on or after the effective date of the tax rate increase if the billing period for the
3596 transaction begins before the effective date of a tax rate increase imposed under:
- 3597 (A) Subsection (2)(a)(i)(A);
- 3598 (B) Subsection (2)(b)(i);
- 3599 (C) Subsection (2)(c)(i); or
- 3600 (D) Subsection (2)(d)(i)(A)(I).
- 3601 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
3602 statement for the billing period is rendered on or after the effective date of the repeal of the tax
3603 or the tax rate decrease imposed under:
- 3604 (A) Subsection (2)(a)(i)(A);
- 3605 (B) Subsection (2)(b)(i);
- 3606 (C) Subsection (2)(c)(i); or
- 3607 (D) Subsection (2)(d)(i)(A)(I).
- 3608 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
3609 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
3610 change in a tax rate takes effect:
- 3611 (A) on the first day of a calendar quarter; and
- 3612 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 3613 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:
- 3614 (A) Subsection (2)(a)(i)(A);
- 3615 (B) Subsection (2)(b)(i);
- 3616 (C) Subsection (2)(c)(i); or
- 3617 (D) Subsection (2)(d)(i)(A)(I).
- 3618 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3619 the commission may by rule define the term "catalogue sale."
- 3620 (3) (a) The following state taxes shall be deposited into the General Fund:
- 3621 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 3622 (ii) the tax imposed by Subsection (2)(b)(i);
- 3623 (iii) the tax imposed by Subsection (2)(c)(i); or

3624 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
3625 (b) The following local taxes shall be distributed to a county, city, or town as provided
3626 in this chapter:
3627 (i) the tax imposed by Subsection (2)(a)(ii);
3628 (ii) the tax imposed by Subsection (2)(b)(ii);
3629 (iii) the tax imposed by Subsection (2)(c)(ii); and
3630 (iv) the tax imposed by Subsection (2)(d)(i)(B).
3631 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3632 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
3633 through (g):
3634 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
3635 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
3636 (B) for the fiscal year; or
3637 (ii) \$17,500,000.
3638 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
3639 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
3640 Department of Natural Resources to:
3641 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
3642 protect sensitive plant and animal species; or
3643 (B) award grants, up to the amount authorized by the Legislature in an appropriations
3644 act, to political subdivisions of the state to implement the measures described in Subsections
3645 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
3646 (ii) Money transferred to the Department of Natural Resources under Subsection
3647 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
3648 person to list or attempt to have listed a species as threatened or endangered under the
3649 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
3650 (iii) At the end of each fiscal year:
3651 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3652 Conservation and Development Fund created in Section 73-10-24;
3653 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3654 Program Subaccount created in Section 73-10c-5; and

3655 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3656 Program Subaccount created in Section 73-10c-5.

3657 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
3658 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
3659 created in Section 4-18-6.

3660 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
3661 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
3662 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
3663 water rights.

3664 (ii) At the end of each fiscal year:

3665 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
3666 Conservation and Development Fund created in Section 73-10-24;

3667 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
3668 Program Subaccount created in Section 73-10c-5; and

3669 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
3670 Program Subaccount created in Section 73-10c-5.

3671 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
3672 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
3673 Fund created in Section 73-10-24 for use by the Division of Water Resources.

3674 (ii) In addition to the uses allowed of the Water Resources Conservation and
3675 Development Fund under Section 73-10-24, the Water Resources Conservation and
3676 Development Fund may also be used to:

3677 (A) conduct hydrologic and geotechnical investigations by the Division of Water
3678 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
3679 quantifying surface and ground water resources and describing the hydrologic systems of an
3680 area in sufficient detail so as to enable local and state resource managers to plan for and
3681 accommodate growth in water use without jeopardizing the resource;

3682 (B) fund state required dam safety improvements; and

3683 (C) protect the state's interest in interstate water compact allocations, including the
3684 hiring of technical and legal staff.

3685 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

3686 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
3687 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

3688 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
3689 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
3690 created in Section 73-10c-5 for use by the Division of Drinking Water to:

3691 (i) provide for the installation and repair of collection, treatment, storage, and
3692 distribution facilities for any public water system, as defined in Section 19-4-102;

3693 (ii) develop underground sources of water, including springs and wells; and

3694 (iii) develop surface water sources.

3695 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3696 2006, the difference between the following amounts shall be expended as provided in this
3697 Subsection (5), if that difference is greater than \$1:

3698 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
3699 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

3700 (ii) \$17,500,000.

3701 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

3702 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
3703 credits; and

3704 (B) expended by the Department of Natural Resources for watershed rehabilitation or
3705 restoration.

3706 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3707 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
3708 created in Section 73-10-24.

3709 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
3710 remaining difference described in Subsection (5)(a) shall be:

3711 (A) transferred each fiscal year to the Division of Water Resources as dedicated
3712 credits; and

3713 (B) expended by the Division of Water Resources for cloud-seeding projects
3714 authorized by Title 73, Chapter 15, Modification of Weather.

3715 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
3716 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

3717 created in Section 73-10-24.

3718 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
3719 remaining difference described in Subsection (5)(a) shall be deposited into the Water
3720 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
3721 Division of Water Resources for:

3722 (i) preconstruction costs:

3723 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
3724 26, Bear River Development Act; and

3725 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
3726 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

3727 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
3728 Chapter 26, Bear River Development Act;

3729 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
3730 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

3731 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
3732 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

3733 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
3734 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
3735 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
3736 incurred for employing additional technical staff for the administration of water rights.

3737 (f) At the end of each fiscal year, any unexpended dedicated credits described in
3738 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
3739 Fund created in Section 73-10-24.

3740 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
3741 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
3742 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
3743 the Transportation Fund created by Section 72-2-102.

3744 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
3745 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
3746 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
3747 by a 1/64% tax rate on the taxable transactions under Subsection (1).

3748 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
3749 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
3750 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3751 created by Section 72-2-124:

3752 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
3753 the revenues collected from the following taxes, which represents a portion of the
3754 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
3755 on vehicles and vehicle-related products:

3756 (A) the tax imposed by Subsection (2)(a)(i)(A);

3757 (B) the tax imposed by Subsection (2)(b)(i);

3758 (C) the tax imposed by Subsection (2)(c)(i); and

3759 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

3760 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
3761 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
3762 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
3763 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

3764 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
3765 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
3766 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
3767 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
3768 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
3769 (8)(a) equal to the product of:

3770 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the
3771 previous fiscal year; and

3772 (B) the total sales and use tax revenue generated by the taxes described in Subsections
3773 (8)(a)(i)(A) through (D) in the current fiscal year.

3774 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
3775 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
3776 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
3777 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
3778 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

3779 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
3780 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
3781 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
3782 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
3783 current fiscal year under Subsection (8)(a).

3784 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
3785 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
3786 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
3787 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
3788 72-2-124.

3789 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
3790 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
3791 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

3792 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
3793 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
3794 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
3795 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the
3796 transactions described in Subsection (1).

3797 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
3798 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
3799 charged for food and food ingredients, except for tax revenue generated by a bundled
3800 transaction attributable to food and food ingredients and tangible personal property other than
3801 food and food ingredients described in Subsection (2)(d).

3802 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
3803 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
3804 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
3805 .025% tax rate on the transactions described in Subsection (1) to be expended to address
3806 chokepoints in construction management.

3807 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
3808 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
3809 food ingredients, except for tax revenue generated by a bundled transaction attributable to food

3810 and food ingredients and tangible personal property other than food and food ingredients
3811 described in Subsection (2)(d).

3812 Section 5. Section **59-12-104** is amended to read:

3813 **59-12-104. Exemptions.**

3814 The following sales and uses are exempt from the taxes imposed by this chapter:

3815 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
3816 under Chapter 13, Motor and Special Fuel Tax Act;

3817 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
3818 subdivisions; however, this exemption does not apply to sales of:

3819 (a) construction materials except:

3820 (i) construction materials purchased by or on behalf of institutions of the public
3821 education system as defined in Utah Constitution Article X, Section 2, provided the
3822 construction materials are clearly identified and segregated and installed or converted to real
3823 property which is owned by institutions of the public education system; and

3824 (ii) construction materials purchased by the state, its institutions, or its political
3825 subdivisions which are installed or converted to real property by employees of the state, its
3826 institutions, or its political subdivisions; or

3827 (b) tangible personal property in connection with the construction, operation,
3828 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
3829 providing additional project capacity, as defined in Section 11-13-103;

3830 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

3831 (i) the proceeds of each sale do not exceed \$1; and

3832 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
3833 the cost of the item described in Subsection (3)(b) as goods consumed; and

3834 (b) Subsection (3)(a) applies to:

3835 (i) food and food ingredients; or

3836 (ii) prepared food;

3837 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

3838 (i) alcoholic beverages;

3839 (ii) food and food ingredients; or

3840 (iii) prepared food;

- 3841 (b) sales of tangible personal property or a product transferred electronically:
3842 (i) to a passenger;
3843 (ii) by a commercial airline carrier; and
3844 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
3845 (c) services related to Subsection (4)(a) or (b);
3846 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
3847 and equipment:
3848 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
3849 North American Industry Classification System of the federal Executive Office of the
3850 President, Office of Management and Budget; and
3851 (II) for:
3852 (Aa) installation in an aircraft, including services relating to the installation of parts or
3853 equipment in the aircraft;
3854 (Bb) renovation of an aircraft; or
3855 (Cc) repair of an aircraft; or
3856 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
3857 commerce; or
3858 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
3859 aircraft operated by a common carrier in interstate or foreign commerce; and
3860 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
3861 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
3862 refund:
3863 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
3864 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
3865 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
3866 the sale prior to filing for the refund;
3867 (iv) for sales and use taxes paid under this chapter on the sale;
3868 (v) in accordance with Section 59-1-1410; and
3869 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
3870 the person files for the refund on or before September 30, 2011;
3871 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

3872 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
3873 exhibitor, distributor, or commercial television or radio broadcaster;

3874 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
3875 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
3876 washing of tangible personal property;

3877 (b) if a seller that sells at the same business location assisted cleaning or washing of
3878 tangible personal property and cleaning or washing of tangible personal property that is not
3879 assisted cleaning or washing of tangible personal property, the exemption described in
3880 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
3881 or washing of the tangible personal property; and

3882 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
3883 Utah Administrative Rulemaking Act, the commission may make rules:

3884 (i) governing the circumstances under which sales are at the same business location;
3885 and

3886 (ii) establishing the procedures and requirements for a seller to separately account for
3887 sales of assisted cleaning or washing of tangible personal property;

3888 (8) sales made to or by religious or charitable institutions in the conduct of their regular
3889 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
3890 fulfilled;

3891 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
3892 this state if the vehicle is:

3893 (a) not registered in this state; and

3894 (b) (i) not used in this state; or

3895 (ii) used in this state:

3896 (A) if the vehicle is not used to conduct business, for a time period that does not
3897 exceed the longer of:

3898 (I) 30 days in any calendar year; or

3899 (II) the time period necessary to transport the vehicle to the borders of this state; or

3900 (B) if the vehicle is used to conduct business, for the time period necessary to transport
3901 the vehicle to the borders of this state;

3902 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

- 3903 (i) the item is intended for human use; and
3904 (ii) (A) a prescription was issued for the item; or
3905 (B) the item was purchased by a hospital or other medical facility; and
3906 (b) (i) Subsection (10)(a) applies to:
3907 (A) a drug;
3908 (B) a syringe; or
3909 (C) a stoma supply; and
3910 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3911 commission may by rule define the terms:
3912 (A) "syringe"; or
3913 (B) "stoma supply";
3914 (11) sales or use of property, materials, or services used in the construction of or
3915 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
3916 (12) (a) sales of an item described in Subsection (12)(c) served by:
3917 (i) the following if the item described in Subsection (12)(c) is not available to the
3918 general public:
3919 (A) a church; or
3920 (B) a charitable institution;
3921 (ii) an institution of higher education if:
3922 (A) the item described in Subsection (12)(c) is not available to the general public; or
3923 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
3924 offered by the institution of higher education; or
3925 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
3926 (i) a medical facility; or
3927 (ii) a nursing facility; and
3928 (c) Subsections (12)(a) and (b) apply to:
3929 (i) food and food ingredients;
3930 (ii) prepared food; or
3931 (iii) alcoholic beverages;
3932 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
3933 or a product transferred electronically by a person:

3934 (i) regardless of the number of transactions involving the sale of that tangible personal
3935 property or product transferred electronically by that person; and

3936 (ii) not regularly engaged in the business of selling that type of tangible personal
3937 property or product transferred electronically;

3938 (b) this Subsection (13) does not apply if:

3939 (i) the sale is one of a series of sales of a character to indicate that the person is
3940 regularly engaged in the business of selling that type of tangible personal property or product
3941 transferred electronically;

3942 (ii) the person holds that person out as regularly engaged in the business of selling that
3943 type of tangible personal property or product transferred electronically;

3944 (iii) the person sells an item of tangible personal property or product transferred
3945 electronically that the person purchased as a sale that is exempt under Subsection (25); or

3946 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
3947 this state in which case the tax is based upon:

3948 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
3949 sold; or

3950 (B) in the absence of a bill of sale or other written evidence of value, the fair market
3951 value of the vehicle or vessel being sold at the time of the sale as determined by the
3952 commission; and

3953 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
3954 commission shall make rules establishing the circumstances under which:

3955 (i) a person is regularly engaged in the business of selling a type of tangible personal
3956 property or product transferred electronically;

3957 (ii) a sale of tangible personal property or a product transferred electronically is one of
3958 a series of sales of a character to indicate that a person is regularly engaged in the business of
3959 selling that type of tangible personal property or product transferred electronically; or

3960 (iii) a person holds that person out as regularly engaged in the business of selling a type
3961 of tangible personal property or product transferred electronically;

3962 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
3963 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
3964 facility, of the following:

- 3965 (i) machinery and equipment that:
- 3966 (A) are used:
- 3967 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
- 3968 recycler described in Subsection 59-12-102(60)(b):
- 3969 (Aa) in the manufacturing process;
- 3970 (Bb) to manufacture an item sold as tangible personal property; and
- 3971 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
- 3972 (14)(a)(i)(A)(I) in the state; or
- 3973 (II) for a manufacturing facility that is a scrap recycler described in Subsection
- 3974 59-12-102(60)(b):
- 3975 (Aa) to process an item sold as tangible personal property; and
- 3976 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
- 3977 (14)(a)(i)(A)(II) in the state; and
- 3978 (B) have an economic life of three or more years; and
- 3979 (ii) normal operating repair or replacement parts that:
- 3980 (A) have an economic life of three or more years; and
- 3981 (B) are used:
- 3982 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
- 3983 recycler described in Subsection 59-12-102(60)(b):
- 3984 (Aa) in the manufacturing process; and
- 3985 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
- 3986 state; or
- 3987 (II) for a manufacturing facility that is a scrap recycler described in Subsection
- 3988 59-12-102(60)(b):
- 3989 (Aa) to process an item sold as tangible personal property; and
- 3990 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
- 3991 state;
- 3992 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
- 3993 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
- 3994 of the following:
- 3995 (i) machinery and equipment that:

3996 (A) are used:
3997 (I) in the manufacturing process;
3998 (II) to manufacture an item sold as tangible personal property; and
3999 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
4000 (14)(b) in the state; and
4001 (B) have an economic life of three or more years; and
4002 (ii) normal operating repair or replacement parts that:
4003 (A) are used:
4004 (I) in the manufacturing process; and
4005 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
4006 (B) have an economic life of three or more years;
4007 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
4008 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
4009 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
4010 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
4011 of the 2002 North American Industry Classification System of the federal Executive Office of
4012 the President, Office of Management and Budget, of the following:
4013 (i) machinery and equipment that:
4014 (A) are used:
4015 (I) (Aa) in the production process, other than the production of real property; or
4016 (Bb) in research and development; and
4017 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
4018 in the state; and
4019 (B) have an economic life of three or more years; and
4020 (ii) normal operating repair or replacement parts that:
4021 (A) have an economic life of three or more years; and
4022 (B) are used in:
4023 (I) (Aa) the production process, except for the production of real property; and
4024 (Bb) an establishment described in this Subsection (14)(c) in the state; or
4025 (II) (Aa) research and development; and
4026 (Bb) in an establishment described in this Subsection (14)(c) in the state;

- 4027 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
4028 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
4029 Search Portals, of the 2002 North American Industry Classification System of the federal
4030 Executive Office of the President, Office of Management and Budget, of the following:
- 4031 (A) machinery and equipment that:
- 4032 (I) are used in the operation of the web search portal;
- 4033 (II) have an economic life of three or more years; and
- 4034 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
4035 in the state; and
- 4036 (B) normal operating repair or replacement parts that:
- 4037 (I) are used in the operation of the web search portal;
- 4038 (II) have an economic life of three or more years; and
- 4039 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
4040 in the state; or
- 4041 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
4042 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
4043 American Industry Classification System of the federal Executive Office of the President,
4044 Office of Management and Budget, of the following:
- 4045 (A) machinery and equipment that:
- 4046 (I) are used in the operation of the web search portal; and
- 4047 (II) have an economic life of three or more years; and
- 4048 (B) normal operating repair or replacement parts that:
- 4049 (I) are used in the operation of the web search portal; and
- 4050 (II) have an economic life of three or more years;
- 4051 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
4052 Utah Administrative Rulemaking Act, the commission:
- 4053 (i) shall by rule define the term "establishment"; and
- 4054 (ii) may by rule define what constitutes:
- 4055 (A) processing an item sold as tangible personal property;
- 4056 (B) the production process, except for the production of real property;
- 4057 (C) research and development; or

4058 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
4059 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
4060 commission shall:

4061 (i) review the exemptions described in this Subsection (14) and make
4062 recommendations to the Revenue and Taxation Interim Committee concerning whether the
4063 exemptions should be continued, modified, or repealed; and

4064 (ii) include in its report:

4065 (A) an estimate of the cost of the exemptions;

4066 (B) the purpose and effectiveness of the exemptions; and

4067 (C) the benefits of the exemptions to the state;

4068 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

4069 (i) tooling;

4070 (ii) special tooling;

4071 (iii) support equipment;

4072 (iv) special test equipment; or

4073 (v) parts used in the repairs or renovations of tooling or equipment described in

4074 Subsections (15)(a)(i) through (iv); and

4075 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

4076 (i) the tooling, equipment, or parts are used or consumed exclusively in the
4077 performance of any aerospace or electronics industry contract with the United States

4078 government or any subcontract under that contract; and

4079 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

4080 title to the tooling, equipment, or parts is vested in the United States government as evidenced
4081 by:

4082 (A) a government identification tag placed on the tooling, equipment, or parts; or

4083 (B) listing on a government-approved property record if placing a government
4084 identification tag on the tooling, equipment, or parts is impractical;

4085 (16) sales of newspapers or newspaper subscriptions;

4086 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
4087 product transferred electronically traded in as full or part payment of the purchase price, except
4088 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

4089 trade-ins are limited to other vehicles only, and the tax is based upon:

4090 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
4091 vehicle being traded in; or

4092 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
4093 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
4094 commission; and

4095 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
4096 following items of tangible personal property or products transferred electronically traded in as
4097 full or part payment of the purchase price:

4098 (i) money;

4099 (ii) electricity;

4100 (iii) water;

4101 (iv) gas; or

4102 (v) steam;

4103 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
4104 or a product transferred electronically used or consumed primarily and directly in farming
4105 operations, regardless of whether the tangible personal property or product transferred
4106 electronically:

4107 (A) becomes part of real estate; or

4108 (B) is installed by a:

4109 (I) farmer;

4110 (II) contractor; or

4111 (III) subcontractor; or

4112 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
4113 product transferred electronically if the tangible personal property or product transferred
4114 electronically is exempt under Subsection (18)(a)(i); and

4115 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
4116 subject to the taxes imposed by this chapter:

4117 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
4118 incidental to farming:

4119 (I) machinery;

4120 (II) equipment;
4121 (III) materials; or
4122 (IV) supplies; and
4123 (B) tangible personal property that is considered to be used in a manner that is
4124 incidental to farming includes:
4125 (I) hand tools; or
4126 (II) maintenance and janitorial equipment and supplies;
4127 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
4128 transferred electronically if the tangible personal property or product transferred electronically
4129 is used in an activity other than farming; and
4130 (B) tangible personal property or a product transferred electronically that is considered
4131 to be used in an activity other than farming includes:
4132 (I) office equipment and supplies; or
4133 (II) equipment and supplies used in:
4134 (Aa) the sale or distribution of farm products;
4135 (Bb) research; or
4136 (Cc) transportation; or
4137 (iii) a vehicle required to be registered by the laws of this state during the period
4138 ending two years after the date of the vehicle's purchase;
4139 (19) sales of hay;
4140 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
4141 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
4142 garden, farm, or other agricultural produce is sold by:
4143 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
4144 agricultural produce;
4145 (b) an employee of the producer described in Subsection (20)(a); or
4146 (c) a member of the immediate family of the producer described in Subsection (20)(a);
4147 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
4148 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;
4149 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
4150 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

4151 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
4152 manufacturer, processor, wholesaler, or retailer;

4153 (23) a product stored in the state for resale;

4154 (24) (a) purchases of a product if:

4155 (i) the product is:

4156 (A) purchased outside of this state;

4157 (B) brought into this state:

4158 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

4159 (II) by a nonresident person who is not living or working in this state at the time of the
4160 purchase;

4161 (C) used for the personal use or enjoyment of the nonresident person described in
4162 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

4163 (D) not used in conducting business in this state; and

4164 (ii) for:

4165 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
4166 the product for a purpose for which the product is designed occurs outside of this state;

4167 (B) a boat, the boat is registered outside of this state; or

4168 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4169 outside of this state;

4170 (b) the exemption provided for in Subsection (24)(a) does not apply to:

4171 (i) a lease or rental of a product; or

4172 (ii) a sale of a vehicle exempt under Subsection (33); and

4173 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
4174 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
4175 following:

4176 (i) conducting business in this state if that phrase has the same meaning in this
4177 Subsection (24) as in Subsection (63);

4178 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
4179 as in Subsection (63); or

4180 (iii) a purpose for which a product is designed if that phrase has the same meaning in
4181 this Subsection (24) as in Subsection (63);

4182 (25) a product purchased for resale in this state, in the regular course of business, either
4183 in its original form or as an ingredient or component part of a manufactured or compounded
4184 product;

4185 (26) a product upon which a sales or use tax was paid to some other state, or one of its
4186 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
4187 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
4188 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
4189 Act;

4190 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
4191 person for use in compounding a service taxable under the subsections;

4192 (28) purchases made in accordance with the special supplemental nutrition program for
4193 women, infants, and children established in 42 U.S.C. Sec. 1786;

4194 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
4195 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
4196 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
4197 Manual of the federal Executive Office of the President, Office of Management and Budget;

4198 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
4199 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

4200 (a) not registered in this state; and

4201 (b) (i) not used in this state; or

4202 (ii) used in this state:

4203 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
4204 time period that does not exceed the longer of:

4205 (I) 30 days in any calendar year; or

4206 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
4207 the borders of this state; or

4208 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
4209 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
4210 state;

4211 (31) sales of aircraft manufactured in Utah;

4212 (32) amounts paid for the purchase of telecommunications service for purposes of

4213 providing telecommunications service;

4214 (33) sales, leases, or uses of the following:

4215 (a) a vehicle by an authorized carrier; or

4216 (b) tangible personal property that is installed on a vehicle:

4217 (i) sold or leased to or used by an authorized carrier; and

4218 (ii) before the vehicle is placed in service for the first time;

4219 (34) (a) 45% of the sales price of any new manufactured home; and

4220 (b) 100% of the sales price of any used manufactured home;

4221 (35) sales relating to schools and fundraising sales;

4222 (36) sales or rentals of durable medical equipment if:

4223 (a) a person presents a prescription for the durable medical equipment; and

4224 (b) the durable medical equipment is used for home use only;

4225 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

4226 Section 72-11-102; and

4227 (b) the commission shall by rule determine the method for calculating sales exempt

4228 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

4229 (38) sales to a ski resort of:

4230 (a) snowmaking equipment;

4231 (b) ski slope grooming equipment;

4232 (c) passenger ropeways as defined in Section 72-11-102; or

4233 (d) parts used in the repairs or renovations of equipment or passenger ropeways

4234 described in Subsections (38)(a) through (c);

4235 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

4236 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

4237 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

4238 59-12-102;

4239 (b) if a seller that sells or rents at the same business location the right to use or operate

4240 for amusement, entertainment, or recreation one or more unassisted amusement devices and

4241 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

4242 applies if the seller separately accounts for the sales or rentals of the right to use or operate for

4243 amusement, entertainment, or recreation for the assisted amusement devices; and

4244 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
4245 Utah Administrative Rulemaking Act, the commission may make rules:
4246 (i) governing the circumstances under which sales are at the same business location;
4247 and
4248 (ii) establishing the procedures and requirements for a seller to separately account for
4249 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
4250 assisted amusement devices;
4251 (41) (a) sales of photocopies by:
4252 (i) a governmental entity; or
4253 (ii) an entity within the state system of public education, including:
4254 (A) a school; or
4255 (B) the State Board of Education; or
4256 (b) sales of publications by a governmental entity;
4257 (42) amounts paid for admission to an athletic event at an institution of higher
4258 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
4259 20 U.S.C. Sec. 1681 et seq.;
4260 (43) (a) sales made to or by:
4261 (i) an area agency on aging; or
4262 (ii) a senior citizen center owned by a county, city, or town; or
4263 (b) sales made by a senior citizen center that contracts with an area agency on aging;
4264 (44) sales or leases of semiconductor fabricating, processing, research, or development
4265 materials regardless of whether the semiconductor fabricating, processing, research, or
4266 development materials:
4267 (a) actually come into contact with a semiconductor; or
4268 (b) ultimately become incorporated into real property;
4269 (45) ~~[an amount paid by or charged to a purchaser for accommodations and services~~
4270 ~~described in Subsection 59-12-103(1)(i) to the extent the amount is]~~ short-term lodging exempt
4271 under Section 59-12-104.2;
4272 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
4273 sports event registration certificate in accordance with Section 41-3-306 for the event period
4274 specified on the temporary sports event registration certificate;

4275 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
4276 by the Public Service Commission of Utah only for purchase of electricity produced from a
4277 new alternative energy source, as designated in the tariff by the Public Service Commission of
4278 Utah; and

4279 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
4280 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
4281 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

4282 (48) sales or rentals of mobility enhancing equipment if a person presents a
4283 prescription for the mobility enhancing equipment;

4284 (49) sales of water in a:

4285 (a) pipe;

4286 (b) conduit;

4287 (c) ditch; or

4288 (d) reservoir;

4289 (50) sales of currency or coins that constitute legal tender of a state, the United States,
4290 or a foreign nation;

4291 (51) (a) sales of an item described in Subsection (51)(b) if the item:

4292 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

4293 (ii) has a gold, silver, or platinum content of 50% or more; and

4294 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

4295 (i) ingot;

4296 (ii) bar;

4297 (iii) medallion; or

4298 (iv) decorative coin;

4299 (52) amounts paid on a sale-leaseback transaction;

4300 (53) sales of a prosthetic device:

4301 (a) for use on or in a human; and

4302 (b) (i) for which a prescription is required; or

4303 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

4304 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

4305 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

4306 or equipment is primarily used in the production or postproduction of the following media for
4307 commercial distribution:

- 4308 (i) a motion picture;
- 4309 (ii) a television program;
- 4310 (iii) a movie made for television;
- 4311 (iv) a music video;
- 4312 (v) a commercial;
- 4313 (vi) a documentary; or
- 4314 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
4315 commission by administrative rule made in accordance with Subsection (54)(d); or

4316 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
4317 equipment by an establishment described in Subsection (54)(c) that is used for the production
4318 or postproduction of the following are subject to the taxes imposed by this chapter:

- 4319 (i) a live musical performance;
- 4320 (ii) a live news program; or
- 4321 (iii) a live sporting event;
- 4322 (c) the following establishments listed in the 1997 North American Industry
4323 Classification System of the federal Executive Office of the President, Office of Management
4324 and Budget, apply to Subsections (54)(a) and (b):
- 4325 (i) NAICS Code 512110; or
- 4326 (ii) NAICS Code 51219; and
- 4327 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4328 commission may by rule:

4329 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

4330 or

- 4331 (ii) define:
 - 4332 (A) "commercial distribution";
 - 4333 (B) "live musical performance";
 - 4334 (C) "live news program"; or
 - 4335 (D) "live sporting event";

4336 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

4337 on or before June 30, 2027, of tangible personal property that:

4338 (i) is leased or purchased for or by a facility that:

4339 (A) is an alternative energy electricity production facility;

4340 (B) is located in the state; and

4341 (C) (I) becomes operational on or after July 1, 2004; or

4342 (II) has its generation capacity increased by one or more megawatts on or after July 1,

4343 2004, as a result of the use of the tangible personal property;

4344 (ii) has an economic life of five or more years; and

4345 (iii) is used to make the facility or the increase in capacity of the facility described in

4346 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

4347 transmission grid including:

4348 (A) a wind turbine;

4349 (B) generating equipment;

4350 (C) a control and monitoring system;

4351 (D) a power line;

4352 (E) substation equipment;

4353 (F) lighting;

4354 (G) fencing;

4355 (H) pipes; or

4356 (I) other equipment used for locating a power line or pole; and

4357 (b) this Subsection (55) does not apply to:

4358 (i) tangible personal property used in construction of:

4359 (A) a new alternative energy electricity production facility; or

4360 (B) the increase in the capacity of an alternative energy electricity production facility;

4361 (ii) contracted services required for construction and routine maintenance activities;

4362 and

4363 (iii) unless the tangible personal property is used or acquired for an increase in capacity

4364 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

4365 acquired after:

4366 (A) the alternative energy electricity production facility described in Subsection

4367 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

4368 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
4369 in Subsection (55)(a)(iii);

4370 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
4371 on or before June 30, 2027, of tangible personal property that:

4372 (i) is leased or purchased for or by a facility that:

4373 (A) is a waste energy production facility;

4374 (B) is located in the state; and

4375 (C) (I) becomes operational on or after July 1, 2004; or

4376 (II) has its generation capacity increased by one or more megawatts on or after July 1,
4377 2004, as a result of the use of the tangible personal property;

4378 (ii) has an economic life of five or more years; and

4379 (iii) is used to make the facility or the increase in capacity of the facility described in
4380 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
4381 transmission grid including:

4382 (A) generating equipment;

4383 (B) a control and monitoring system;

4384 (C) a power line;

4385 (D) substation equipment;

4386 (E) lighting;

4387 (F) fencing;

4388 (G) pipes; or

4389 (H) other equipment used for locating a power line or pole; and

4390 (b) this Subsection (56) does not apply to:

4391 (i) tangible personal property used in construction of:

4392 (A) a new waste energy facility; or

4393 (B) the increase in the capacity of a waste energy facility;

4394 (ii) contracted services required for construction and routine maintenance activities;

4395 and

4396 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4397 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

4398 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

4399 described in Subsection (56)(a)(iii); or
4400 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
4401 in Subsection (56)(a)(iii);
4402 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
4403 or before June 30, 2027, of tangible personal property that:
4404 (i) is leased or purchased for or by a facility that:
4405 (A) is located in the state;
4406 (B) produces fuel from alternative energy, including:
4407 (I) methanol; or
4408 (II) ethanol; and
4409 (C) (I) becomes operational on or after July 1, 2004; or
4410 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
4411 a result of the installation of the tangible personal property;
4412 (ii) has an economic life of five or more years; and
4413 (iii) is installed on the facility described in Subsection (57)(a)(i);
4414 (b) this Subsection (57) does not apply to:
4415 (i) tangible personal property used in construction of:
4416 (A) a new facility described in Subsection (57)(a)(i); or
4417 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
4418 (ii) contracted services required for construction and routine maintenance activities;
4419 and
4420 (iii) unless the tangible personal property is used or acquired for an increase in capacity
4421 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
4422 (A) the facility described in Subsection (57)(a)(i) is operational; or
4423 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
4424 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
4425 product transferred electronically to a person within this state if that tangible personal property
4426 or product transferred electronically is subsequently shipped outside the state and incorporated
4427 pursuant to contract into and becomes a part of real property located outside of this state;
4428 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
4429 state or political entity to which the tangible personal property is shipped imposes a sales, use,

4430 gross receipts, or other similar transaction excise tax on the transaction against which the other
4431 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

4432 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
4433 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
4434 refund:

4435 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

4436 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
4437 which the sale is made;

4438 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
4439 sale prior to filing for the refund;

4440 (iv) for sales and use taxes paid under this chapter on the sale;

4441 (v) in accordance with Section 59-1-1410; and

4442 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
4443 the person files for the refund on or before June 30, 2011;

4444 (59) purchases:

4445 (a) of one or more of the following items in printed or electronic format:

4446 (i) a list containing information that includes one or more:

4447 (A) names; or

4448 (B) addresses; or

4449 (ii) a database containing information that includes one or more:

4450 (A) names; or

4451 (B) addresses; and

4452 (b) used to send direct mail;

4453 (60) redemptions or repurchases of a product by a person if that product was:

4454 (a) delivered to a pawnbroker as part of a pawn transaction; and

4455 (b) redeemed or repurchased within the time period established in a written agreement
4456 between the person and the pawnbroker for redeeming or repurchasing the product;

4457 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

4458 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

4459 and

4460 (ii) has a useful economic life of one or more years; and

4461 (b) the following apply to Subsection (61)(a):
4462 (i) telecommunications enabling or facilitating equipment, machinery, or software;
4463 (ii) telecommunications equipment, machinery, or software required for 911 service;
4464 (iii) telecommunications maintenance or repair equipment, machinery, or software;
4465 (iv) telecommunications switching or routing equipment, machinery, or software; or
4466 (v) telecommunications transmission equipment, machinery, or software;
4467 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
4468 personal property or a product transferred electronically that are used in the research and
4469 development of alternative energy technology; and
4470 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4471 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
4472 purchases of tangible personal property or a product transferred electronically that are used in
4473 the research and development of alternative energy technology;
4474 (63) (a) purchases of tangible personal property or a product transferred electronically
4475 if:
4476 (i) the tangible personal property or product transferred electronically is:
4477 (A) purchased outside of this state;
4478 (B) brought into this state at any time after the purchase described in Subsection
4479 (63)(a)(i)(A); and
4480 (C) used in conducting business in this state; and
4481 (ii) for:
4482 (A) tangible personal property or a product transferred electronically other than the
4483 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
4484 for a purpose for which the property is designed occurs outside of this state; or
4485 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
4486 outside of this state;
4487 (b) the exemption provided for in Subsection (63)(a) does not apply to:
4488 (i) a lease or rental of tangible personal property or a product transferred electronically;
4489 or
4490 (ii) a sale of a vehicle exempt under Subsection (33); and
4491 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

4492 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
4493 following:

4494 (i) conducting business in this state if that phrase has the same meaning in this
4495 Subsection (63) as in Subsection (24);

4496 (ii) the first use of tangible personal property or a product transferred electronically if
4497 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

4498 (iii) a purpose for which tangible personal property or a product transferred
4499 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
4500 Subsection (24);

4501 (64) sales of disposable home medical equipment or supplies if:

4502 (a) a person presents a prescription for the disposable home medical equipment or
4503 supplies;

4504 (b) the disposable home medical equipment or supplies are used exclusively by the
4505 person to whom the prescription described in Subsection (64)(a) is issued; and

4506 (c) the disposable home medical equipment and supplies are listed as eligible for
4507 payment under:

4508 (i) Title XVIII, federal Social Security Act; or

4509 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

4510 (65) sales:

4511 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
4512 District Act; or

4513 (b) of tangible personal property to a subcontractor of a public transit district, if the
4514 tangible personal property is:

4515 (i) clearly identified; and

4516 (ii) installed or converted to real property owned by the public transit district;

4517 (66) sales of construction materials:

4518 (a) purchased on or after July 1, 2010;

4519 (b) purchased by, on behalf of, or for the benefit of an international airport:

4520 (i) located within a county of the first class; and

4521 (ii) that has a United States customs office on its premises; and

4522 (c) if the construction materials are:

- 4523 (i) clearly identified;
- 4524 (ii) segregated; and
- 4525 (iii) installed or converted to real property:
- 4526 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 4527 (B) located at the international airport described in Subsection (66)(b);
- 4528 (67) sales of construction materials:
- 4529 (a) purchased on or after July 1, 2008;
- 4530 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 4531 (i) located within a county of the second class; and
- 4532 (ii) that is owned or operated by a city in which an airline as defined in Section
- 4533 59-2-102 is headquartered; and
- 4534 (c) if the construction materials are:
- 4535 (i) clearly identified;
- 4536 (ii) segregated; and
- 4537 (iii) installed or converted to real property:
- 4538 (A) owned or operated by the new airport described in Subsection (67)(b);
- 4539 (B) located at the new airport described in Subsection (67)(b); and
- 4540 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 4541 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 4542 (69) purchases and sales described in Section 63H-4-111;
- 4543 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 4544 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 4545 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 4546 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 4547 powered aircraft; or
- 4548 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 4549 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 4550 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 4551 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 4552 powered aircraft;
- 4553 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

- 4554 (a) to a person admitted to an institution of higher education; and
- 4555 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 4556 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 4557 textbook for a higher education course;
- 4558 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 4559 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
- 4560 level of municipal services;
- 4561 (73) amounts paid or charged for construction materials used in the construction of a
- 4562 new or expanding life science research and development facility in the state, if the construction
- 4563 materials are:
 - 4564 (a) clearly identified;
 - 4565 (b) segregated; and
 - 4566 (c) installed or converted to real property; and
- 4567 (74) amounts paid or charged for:
 - 4568 (a) a purchase or lease of machinery and equipment that:
 - 4569 (i) are used in performing qualified research:
 - 4570 (A) as defined in Section 59-7-612;
 - 4571 (B) in the state; and
 - 4572 (C) with respect to which the purchaser pays or incurs a qualified research expense as
 - 4573 defined in Section 59-7-612; and
 - 4574 (ii) have an economic life of three or more years; and
 - 4575 (b) normal operating repair or replacement parts:
 - 4576 (i) for the machinery and equipment described in Subsection (74)(a); and
 - 4577 (ii) that have an economic life of three or more years.
- 4578 Section 6. Section **59-12-104.2** is amended to read:
 - 4579 **59-12-104.2. Exemption for accommodations and services taxed by the Navajo**
 - 4580 **Nation.**
 - 4581 (1) As used in this section "tribal taxing area" means the geographical area that:
 - 4582 (a) is subject to the taxing authority of the Navajo Nation; and
 - 4583 (b) consists of:
 - 4584 (i) notwithstanding the issuance of a patent, all land:

4585 (A) within the limits of an Indian reservation under the jurisdiction of the federal
4586 government; and

4587 (B) including any rights-of-way running through the reservation; and

4588 (ii) all Indian allotments the Indian titles to which have not been extinguished,
4589 including any rights-of-way running through an Indian allotment.

4590 (2) (a) Beginning July 1, 2001, amounts [~~paid by or charged to a purchaser for~~
4591 ~~accommodations and services described in~~] subject to taxation as short-term lodging under
4592 Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection
4593 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:

4594 (i) the [~~accommodations and services described in Subsection 59-12-103(1)(i) are~~]
4595 short-term lodging is provided within:

4596 (A) the state; and

4597 (B) a tribal taxing area;

4598 (ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to
4599 the purchaser for the [~~accommodations and services described in Subsection 59-12-103(1)(i)]
4600 short-term lodging;~~

4601 (iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without
4602 regard to whether or not the purchaser that pays or is charged for the [~~accommodations and~~
4603 ~~services~~] short-term lodging is an enrolled member of the Navajo Nation; and

4604 (iv) the requirements of Subsection (4) are met.

4605 (b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for
4606 [~~accommodations and services~~] short-term lodging described in Subsection (2)(a) are subject to
4607 a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I):

4608 (i) the seller shall collect and pay to the state the difference described in Subsection (3)
4609 if that difference is greater than \$0; and

4610 (ii) a person may not require the state to provide a refund, a credit, or similar tax relief
4611 if the difference described in Subsection (3) is equal to or less than \$0.

4612 (3) The difference described in Subsection (2)(b) is equal to the difference between:

4613 (a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)(d)(i)(A)(I)
4614 on the amounts [~~paid by or charged to a purchaser for accommodations and services described~~
4615 ~~in~~] subject to taxation as short-term lodging under Subsection 59-12-103(1)(i); [~~less~~] and

4616 (b) the tax imposed and collected by the Navajo Nation on the amounts paid by or
4617 charged to a purchaser for the [~~accommodations and services described in Subsection~~
4618 ~~59-12-103(1)(i)~~] short-term lodging.

4619 (4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax
4620 imposed on amounts paid by or charged to a purchaser for [~~accommodations and services~~
4621 ~~described in Subsection 59-12-103(1)(i)~~] short-term lodging, any change in the amount of the
4622 exemption under Subsection (2) as a result of the change in the tax rate is not effective until the
4623 first day of the calendar quarter after a 90-day period beginning on the date the commission
4624 receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

4625 (b) The notice described in Subsection (4)(a) shall state:

4626 (i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
4627 amounts paid by or charged to a purchaser for [~~accommodations and services described in~~
4628 ~~Subsection 59-12-103(1)(i)~~] short-term lodging;

4629 (ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i);
4630 and

4631 (iii) the new rate of the tax described in Subsection (4)(b)(i).

4632 (5) Beginning with the 2006 interim, the Revenue and Taxation Interim Committee:

4633 (a) shall review the exemption provided for in this section one or more times every five
4634 years;

4635 (b) shall determine on or before the November interim meeting of the year in which the
4636 Revenue and Taxation Interim Committee reviews the exemption provided for in this section
4637 whether the exemption should be:

4638 (i) continued;

4639 (ii) modified; or

4640 (iii) repealed; and

4641 (c) may review any other issue related to the exemption provided for in this section as
4642 determined by the Revenue and Taxation Interim Committee.

4643 Section 7. Section **59-12-104.6** is amended to read:

4644 **59-12-104.6. Procedure for claiming a sales and use tax exemption for certain**
4645 **lodging related purchases -- Rulemaking authority -- Applicability of section.**

4646 (1) As used in this section:

4647 (a) "Designated establishment within the lodging industry" means an establishment
4648 described in NAICS Code 721110 or 721191 of the 2007 North American Industry
4649 Classification System of the federal Executive Office of the President, Office of Management
4650 and Budget.

4651 (b) "Exempt purchaser" means a person that:

4652 (i) makes a lodging related purchase; and

4653 (ii) may claim an exemption from a tax under this chapter for the purchase.

4654 (c) "Lodging related purchase" means the purchase of the following from a seller that is
4655 a designated establishment within the lodging industry:

4656 (i) [~~accommodations and services described in Subsection 59-12-103(1)(i)~~] short-term
4657 lodging; or

4658 (ii) any other tangible personal property, product, or service that is:

4659 (A) purchased as part of a transaction that includes the purchase of [~~accommodations~~
4660 ~~and services described in Subsection (1)(c)(i)~~] short-term lodging; and

4661 (B) included on the invoice, bill of sale, or similar document provided to the purchaser
4662 of the [~~accommodations and services described in Subsection (1)(c)(i)~~] short-term lodging.

4663 (2) Except as provided in Subsection (3), an exempt purchaser that makes a lodging
4664 related purchase:

4665 (a) shall pay a tax that would otherwise be imposed under this chapter on the lodging
4666 related purchase but for the purchaser being allowed to claim an exemption from a tax under
4667 this chapter for the purchase; and

4668 (b) may apply to the commission for a refund of the tax described in Subsection (2)(a)
4669 that the purchaser pays.

4670 (3) An exempt purchaser that makes a lodging related purchase may claim an
4671 exemption from a tax under this chapter at the point of sale if the exempt purchaser:

4672 (a) is an agency or instrumentality of the United States;

4673 (b) is exempt from a tax under this chapter on a lodging related purchase as authorized
4674 by a diplomatic tax exemption card issued by the United States; or

4675 (c) may claim the exemption at the point of sale in accordance with Section
4676 59-12-104.1.

4677 (4) An exempt purchaser that applies to the commission for a refund may not make an

4678 application to the commission for a refund more frequently than monthly.

4679 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4680 commission may make rules providing:

4681 (a) procedures for applying for a refund under this section;

4682 (b) standards for determining and verifying the amount of a lodging related purchase by
4683 an exempt purchaser; and

4684 (c) procedures for claiming a refund on a monthly basis.

4685 (6) This section does not apply to amounts taxed by the Navajo Nation that are exempt
4686 from sales and use taxes in accordance with Section 59-12-104.2.

4687 Section 8. Section **59-12-107** is amended to read:

4688 **59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or**
4689 **other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other**
4690 **liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt --**
4691 **Penalties and interest.**

4692 (1) As used in this section:

4693 (a) "Ownership" means direct ownership or indirect ownership through a parent,
4694 subsidiary, or affiliate.

4695 (b) "Related seller" means a seller that:

4696 (i) meets one or more of the criteria described in Subsection (2)(a)(i); and

4697 (ii) delivers tangible personal property, a service, or a product transferred electronically
4698 that is sold:

4699 (A) by a seller that does not meet one or more of the criteria described in Subsection
4700 (2)(a)(i); and

4701 (B) to a purchaser in the state.

4702 (c) "Substantial ownership interest" means an ownership interest in a business entity if
4703 that ownership interest is greater than the degree of ownership of equity interest specified in 15
4704 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

4705 (2) (a) Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section
4706 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales
4707 and use taxes imposed by this chapter if within this state the seller:

4708 (i) has or utilizes:

- 4709 (A) an office;
- 4710 (B) a distribution house;
- 4711 (C) a sales house;
- 4712 (D) a warehouse;
- 4713 (E) a service enterprise; or
- 4714 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);
- 4715 (ii) maintains a stock of goods;
- 4716 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
- 4717 state, unless the seller's only activity in the state is:
- 4718 (A) advertising; or
- 4719 (B) solicitation by:
- 4720 (I) direct mail;
- 4721 (II) electronic mail;
- 4722 (III) the Internet;
- 4723 (IV) telecommunications service; or
- 4724 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
- 4725 (iv) regularly engages in the delivery of property in the state other than by:
- 4726 (A) common carrier; or
- 4727 (B) United States mail; or
- 4728 (v) regularly engages in an activity directly related to the leasing or servicing of
- 4729 property located within the state.
- 4730 (b) A seller is considered to be engaged in the business of selling tangible personal
- 4731 property, a service, or a product transferred electronically for use in the state, and shall pay or
- 4732 collect and remit the sales and use taxes imposed by this chapter if:
- 4733 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
- 4734 substantial part by, a related seller; and
- 4735 (ii) (A) the seller sells the same or a substantially similar line of products as the related
- 4736 seller and does so under the same or a substantially similar business name; or
- 4737 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
- 4738 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
- 4739 to a purchaser.

4740 (c) A seller that does not meet one or more of the criteria provided for in Subsection
4741 (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection
4742 (2)(b):

4743 (i) except as provided in Subsection (2)(c)(ii), may voluntarily:

4744 (A) collect a tax on a transaction described in Subsection 59-12-103(1); and

4745 (B) remit the tax to the commission as provided in this part; or

4746 (ii) notwithstanding Subsection (2)(c)(i), shall collect a tax on a transaction described
4747 in Subsection 59-12-103(1) if Section 59-12-103.1 requires the seller to collect the tax.

4748 (d) The collection and remittance of a tax under this chapter by a seller that is
4749 registered under the agreement may not be used as a factor in determining whether that seller is
4750 required by Subsection (2) to:

4751 (i) pay a tax, fee, or charge under:

4752 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4753 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

4754 (C) Section 19-6-714;

4755 (D) Section 19-6-805;

4756 (E) Section 69-2-5;

4757 (F) Section 69-2-5.5;

4758 (G) Section 69-2-5.6; or

4759 (H) this title; or

4760 (ii) collect and remit a tax, fee, or charge under:

4761 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

4762 (B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

4763 (C) Section 19-6-714;

4764 (D) Section 19-6-805;

4765 (E) Section 69-2-5;

4766 (F) Section 69-2-5.5;

4767 (G) Section 69-2-5.6; or

4768 (H) this title.

4769 (e) A person shall pay a use tax imposed by this chapter on a transaction described in
4770 Subsection 59-12-103(1) if:

- 4771 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
4772 (ii) the person:
- 4773 (A) stores the tangible personal property or product transferred electronically in the
4774 state;
4775 (B) uses the tangible personal property or product transferred electronically in the state;
4776 or
4777 (C) consumes the tangible personal property or product transferred electronically in the
4778 state.
- 4779 (f) The ownership of property that is located at the premises of a printer's facility with
4780 which the retailer has contracted for printing and that consists of the final printed product,
4781 property that becomes a part of the final printed product, or copy from which the printed
4782 product is produced, shall not result in the retailer being considered to have or maintain an
4783 office, distribution house, sales house, warehouse, service enterprise, or other place of
4784 business, or to maintain a stock of goods, within this state.
- 4785 (3) (a) Except as provided in Section 59-12-107.1, a tax under this chapter shall be
4786 collected from a purchaser.
- 4787 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
4788 cent, in excess of the tax computed at the rates prescribed by this chapter.
- 4789 (c) (i) Each seller shall:
- 4790 (A) give the purchaser a receipt for the tax collected; or
4791 (B) bill the tax as a separate item and declare the name of this state and the seller's
4792 sales and use tax license number on the invoice for the sale.
- 4793 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
4794 and relieves the purchaser of the liability for reporting the tax to the commission as a
4795 consumer.
- 4796 (d) A seller is not required to maintain a separate account for the tax collected, but is
4797 considered to be a person charged with receipt, safekeeping, and transfer of public money.
- 4798 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
4799 benefit of the state and for payment to the commission in the manner and at the time provided
4800 for in this chapter.
- 4801 (f) If any seller, during any reporting period, collects as a tax an amount in excess of

4802 the lawful state and local percentage of total taxable sales allowed under this chapter, the seller
4803 shall remit to the commission the full amount of the tax imposed under this chapter, plus any
4804 excess.

4805 (g) If the accounting methods regularly employed by the seller in the transaction of the
4806 seller's business are such that reports of sales made during a calendar month or quarterly period
4807 will impose unnecessary hardships, the commission may accept reports at intervals that will, in
4808 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
4809 jeopardize collection of the tax.

4810 (h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1,
4811 and until such time as the commission accepts specie legal tender for the payment of a tax
4812 under this chapter, if the commission requires a seller to remit a tax under this chapter in legal
4813 tender other than specie legal tender, the seller shall state on the seller's books and records and
4814 on an invoice, bill of sale, or similar document provided to the purchaser:

4815 (A) the purchase price in specie legal tender and in the legal tender the seller is
4816 required to remit to the commission;

4817 (B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie
4818 legal tender and in the legal tender the seller is required to remit to the commission;

4819 (C) the tax rate under this chapter applicable to the purchase; and

4820 (D) the date of the purchase.

4821 (ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of
4822 tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the
4823 specie legal tender the purchaser paid.

4824 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4825 commission may make rules for determining the amount of tax due under Subsection (3)(h)(i)
4826 if the London fixing price is not available for a particular day.

4827 (i) For purposes of a sale of short-term lodging that involves a short-term lodging
4828 intermediary:

4829 (i) the short-term lodging intermediary shall:

4830 (A) collect a tax under this chapter on the short-term lodging charge that is charged to
4831 the purchaser;

4832 (B) separately state the tax described in Subsection (3)(i)(i)(A) on an invoice, a bill of

4833 sale, or similar document provided to the purchaser prior to the purchaser's completion of the
4834 possession, use, or occupancy of the short-term lodging;

4835 (C) remit to the commission the tax described in Subsection (3)(i)(i)(A) on the
4836 short-term lodging intermediary charge; and

4837 (D) remit to the short-term lodging operator the tax due on the short-term lodging
4838 operator charge;

4839 (ii) the short-term lodging operator shall remit to the commission the tax due on the
4840 short-term lodging operator charge;

4841 (iii) the commission may not require:

4842 (A) a short-term lodging operator to remit a tax on a short-term lodging intermediary
4843 charge that was not remitted to the short-term lodging operator by the short-term lodging
4844 intermediary; or

4845 (B) a short-term lodging intermediary to remit a tax on a short-term lodging operator
4846 charge that was remitted to the short-term lodging operator by the short-term lodging
4847 intermediary; and

4848 (iv) for purposes of determining a tax due under this chapter on a short-term lodging
4849 charge, a short-term lodging intermediary shall determine the amount of a short-term lodging
4850 charge that is part of a travel package by reasonable and verifiable standards from the books
4851 and records the short-term lodging intermediary keeps in the regular course of business,
4852 including books and records kept for nontax purposes.

4853 (4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the
4854 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
4855 before the last day of the month next succeeding each calendar quarterly period.

4856 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
4857 calendar quarterly period, file with the commission a return for the preceding quarterly period.

4858 (ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the
4859 tax required under this chapter to be collected or paid for the period covered by the return.

4860 (c) Except as provided in Subsection (5)(c), a return shall contain information and be in
4861 a form the commission prescribes by rule.

4862 (d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be
4863 based on the total nonexempt sales made during the period for which the return is filed,

4864 including both cash and charge sales.

4865 (ii) For a sale that includes the delivery or installation of tangible personal property at a
4866 location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery
4867 or installation is separately stated on an invoice or receipt, a seller may compute the tax due on
4868 the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that
4869 sale during each period for which the seller receives payment for the sale.

4870 (e) (i) The use tax as computed in the return shall be based on the total amount of
4871 purchases for storage, use, or other consumption in this state made during the period for which
4872 the return is filed, including both cash and charge purchases.

4873 (ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser
4874 who is required to remit taxes under this chapter, but is not required to remit taxes monthly in
4875 accordance with Section 59-12-108, and who converts tangible personal property into real
4876 property.

4877 (B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the
4878 taxes due under this chapter on tangible personal property for which the qualifying purchaser
4879 claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in
4880 which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C),
4881 for the conversion of the tangible personal property into real property.

4882 (C) A qualifying purchaser remitting taxes due under this chapter in accordance with
4883 Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the
4884 qualifying purchaser's purchase of the tangible personal property that was converted into real
4885 property multiplied by a fraction, the numerator of which is the payment received in the period
4886 for the qualifying purchaser's sale of the tangible personal property that was converted into real
4887 property and the denominator of which is the entire sales price for the qualifying purchaser's
4888 sale of the tangible personal property that was converted into real property.

4889 (D) A qualifying purchaser may remit taxes due under this chapter in accordance with
4890 this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in
4891 the qualifying purchaser's regular course of business identify by reasonable and verifiable
4892 standards that the tangible personal property was converted into real property.

4893 (f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3,
4894 Utah Administrative Rulemaking Act, the commission may by rule extend the time for making

4895 returns and paying the taxes.

4896 (ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

4897 (g) The commission may require returns and payment of the tax to be made for other
4898 than quarterly periods if the commission considers it necessary in order to ensure the payment
4899 of the tax imposed by this chapter.

4900 (h) (i) The commission may require a seller that files a simplified electronic return with
4901 the commission to file an additional electronic report with the commission.

4902 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
4903 commission may make rules providing:

4904 (A) the information required to be included in the additional electronic report described
4905 in Subsection (4)(h)(i); and

4906 (B) one or more due dates for filing the additional electronic report described in
4907 Subsection (4)(h)(i).

4908 (5) (a) As used in this Subsection (5) and Subsection (6)(b), "remote seller" means a
4909 seller that is:

4910 (i) registered under the agreement;

4911 (ii) described in Subsection (2)(c); and

4912 (iii) not a:

4913 (A) model 1 seller;

4914 (B) model 2 seller; or

4915 (C) model 3 seller.

4916 (b) (i) Except as provided in Subsection (5)(b)(ii), a tax a remote seller collects in
4917 accordance with Subsection (2)(c) is due and payable:

4918 (A) to the commission;

4919 (B) annually; and

4920 (C) on or before the last day of the month immediately following the last day of each
4921 calendar year.

4922 (ii) The commission may require that a tax a remote seller collects in accordance with
4923 Subsection (2)(c) be due and payable:

4924 (A) to the commission; and

4925 (B) on the last day of the month immediately following any month in which the seller

4926 accumulates a total of at least \$1,000 in agreement sales and use tax.

4927 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection

4928 (5)(b), the remote seller shall file a return:

4929 (A) with the commission;

4930 (B) with respect to the tax;

4931 (C) containing information prescribed by the commission; and

4932 (D) on a form prescribed by the commission.

4933 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

4934 commission shall make rules prescribing:

4935 (A) the information required to be contained in a return described in Subsection

4936 (5)(c)(i); and

4937 (B) the form described in Subsection (5)(c)(i)(D).

4938 (d) A tax a remote seller collects in accordance with this Subsection (5) shall be

4939 calculated on the basis of the total amount of taxable transactions under Subsection

4940 59-12-103(1) the remote seller completes, including:

4941 (i) a cash transaction; and

4942 (ii) a charge transaction.

4943 (6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified

4944 electronic return collects in accordance with this chapter is due and payable:

4945 (i) monthly on or before the last day of the month immediately following the month for

4946 which the seller collects a tax under this chapter; and

4947 (ii) for the month for which the seller collects a tax under this chapter.

4948 (b) A tax a remote seller that files a simplified electronic return collects in accordance

4949 with this chapter is due and payable as provided in Subsection (5).

4950 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the

4951 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to

4952 titling or registration under the laws of this state.

4953 (b) The commission shall collect the tax described in Subsection (7)(a) when the

4954 vehicle is titled or registered.

4955 (8) If any sale of tangible personal property or any other taxable transaction under

4956 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not

4957 responsible for the collection or payment of the tax imposed on the sale and the retailer is
4958 responsible for the collection or payment of the tax imposed on the sale if:

4959 (a) the retailer represents that the personal property is purchased by the retailer for
4960 resale; and

4961 (b) the personal property is not subsequently resold.

4962 (9) If any sale of property or service subject to the tax is made to a person prepaying
4963 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
4964 contractor or subcontractor of that person, the person to whom such payment or consideration
4965 is payable is not responsible for the collection or payment of the sales or use tax and the person
4966 prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax
4967 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
4968 tax has not been fully credited against sales or use tax due and payable under the rules
4969 promulgated by the commission.

4970 (10) (a) For purposes of this Subsection (10):

4971 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" is as defined in Section
4972 166, Internal Revenue Code.

4973 (ii) Notwithstanding Subsection (10)(a)(i), "bad debt" does not include:

4974 (A) an amount included in the purchase price of tangible personal property, a product
4975 transferred electronically, or a service that is:

4976 (I) not a transaction described in Subsection 59-12-103(1); or

4977 (II) exempt under Section 59-12-104;

4978 (B) a financing charge;

4979 (C) interest;

4980 (D) a tax imposed under this chapter on the purchase price of tangible personal
4981 property, a product transferred electronically, or a service;

4982 (E) an uncollectible amount on tangible personal property or a product transferred
4983 electronically that:

4984 (I) is subject to a tax under this chapter; and

4985 (II) remains in the possession of a seller until the full purchase price is paid;

4986 (F) an expense incurred in attempting to collect any debt; or

4987 (G) an amount that a seller does not collect on repossessed property.

4988 (b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later
4989 becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax
4990 under this chapter is calculated on a return.

4991 (ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the
4992 total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on
4993 the qualifying purchaser's purchase of tangible personal property converted into real property to
4994 the extent that:

4995 (A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal
4996 property converted into real property;

4997 (B) the qualifying purchaser's sale of that tangible personal property converted into real
4998 property later becomes bad debt; and

4999 (C) the books and records that the qualifying purchaser keeps in the qualifying
5000 purchaser's regular course of business identify by reasonable and verifiable standards that the
5001 tangible personal property was converted into real property.

5002 (c) A seller may file a refund claim with the commission if:

5003 (i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds
5004 the amount of the seller's sales that are subject to a tax under this chapter for that same time
5005 period; and

5006 (ii) as provided in Section 59-1-1410.

5007 (d) A bad debt deduction under this section may not include interest.

5008 (e) A bad debt may be deducted under this Subsection (10) on a return for the time
5009 period during which the bad debt:

5010 (i) is written off as uncollectible in the seller's books and records; and

5011 (ii) would be eligible for a bad debt deduction:

5012 (A) for federal income tax purposes; and

5013 (B) if the seller were required to file a federal income tax return.

5014 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
5015 claims a refund under this Subsection (10), the seller shall report and remit a tax under this
5016 chapter:

5017 (i) on the portion of the bad debt the seller recovers; and

5018 (ii) on a return filed for the time period for which the portion of the bad debt is

5019 recovered.

5020 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection

5021 (10)(f), a seller shall apply amounts received on the bad debt in the following order:

5022 (i) in a proportional amount:

5023 (A) to the purchase price of the tangible personal property, product transferred
5024 electronically, or service; and

5025 (B) to the tax due under this chapter on the tangible personal property, product
5026 transferred electronically, or service; and

5027 (ii) to:

5028 (A) interest charges;

5029 (B) service charges; and

5030 (C) other charges.

5031 (h) A seller's certified service provider may make a deduction or claim a refund for bad
5032 debt on behalf of the seller:

5033 (i) in accordance with this Subsection (10); and

5034 (ii) if the certified service provider credits or refunds the entire amount of the bad debt
5035 deduction or refund to the seller.

5036 (i) A seller may allocate bad debt among the states that are members of the agreement
5037 if the seller's books and records support that allocation.

5038 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
5039 amount of tax required by this chapter.

5040 (b) A violation of this section is punishable as provided in Section 59-1-401.

5041 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
5042 paid to the state, except amounts determined to be due by the commission under Chapter 1,
5043 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
5044 required by this chapter, or who fails to file any return as required by this chapter, shall pay, in
5045 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

5046 (d) For purposes of prosecution under this section, each quarterly tax period in which a
5047 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
5048 tax required to be remitted, constitutes a separate offense.

5049 Section 9. Section **59-12-107.1** is amended to read:

5050 **59-12-107.1. Direct payment permit.**

5051 (1) The commission may issue a direct payment permit to a seller that:

5052 (a) obtains a license under Section 59-12-106;

5053 (b) makes aggregate purchases of at least \$1,500,000 for each of the three years prior to

5054 the year in which the commission issues the direct payment permit to the seller;

5055 (c) has a record of timely payment of taxes under this chapter as determined by the

5056 commission; and

5057 (d) demonstrates to the commission that the seller has the ability to determine the

5058 appropriate location of a transaction:

5059 (i) under:

5060 (A) Section 59-12-211;

5061 (B) Section 59-12-212; or

5062 (C) Section 59-12-213; and

5063 (ii) for each transaction for which the seller makes a purchase using the direct payment

5064 permit.

5065 (2) The commission shall within 120 days after the date a seller applies for a direct

5066 payment permit notify the seller of the commission's decision to issue or deny the issuance of

5067 the direct payment permit.

5068 (3) A direct payment permit may not be used in connection with the following

5069 transactions:

5070 (a) a purchase of the following purchased in the same transaction:

5071 (i) prepared food; and

5072 (ii) food and food ingredients;

5073 (b) amounts paid or charged for [~~accommodations and services described in Subsection~~5074 ~~59-12-103(1)(i)] short-term lodging;~~

5075 (c) amounts paid or charged for admission or user fees under Subsection

5076 59-12-103(1)(f);

5077 (d) a purchase of:

5078 (i) a motor vehicle;

5079 (ii) an aircraft;

5080 (iii) a watercraft;

5081 (iv) a modular home;

5082 (v) a manufactured home; or

5083 (vi) a mobile home;

5084 (e) amounts paid under Subsection 59-12-103(1)(b); or

5085 (f) sales under Subsection 59-12-103(1)(c).

5086 (4) The holder of a direct payment permit shall:

5087 (a) present evidence of the direct payment permit to a seller at the time the holder of

5088 the direct payment permit makes a purchase using the direct payment permit;

5089 (b) determine the appropriate location of a transaction under:

5090 (i) (A) Section 59-12-211;

5091 (B) Section 59-12-212; or

5092 (C) Section 59-12-213; and

5093 (ii) for each transaction for which the holder of the direct payment permit makes a

5094 purchase using the direct payment permit;

5095 (c) notwithstanding Section 59-12-107, determine the amount of any sales and use tax

5096 due on each transaction for which the holder of the direct payment permit uses the direct

5097 payment permit;

5098 (d) report and remit to the commission the sales and use tax described in Subsection

5099 (4)(c) at the same time and in the same manner as the holder of the direct payment permit

5100 reports and remits a tax under this chapter; and

5101 (e) maintain records:

5102 (i) that indicate the appropriate location of a transaction under:

5103 (A) (I) Section 59-12-211;

5104 (II) Section 59-12-212; or

5105 (III) Section 59-12-213; and

5106 (B) for each transaction for which a purchase is made using the direct payment permit;

5107 and

5108 (ii) necessary to determine the amount described in Subsection (4)(c) for each

5109 transaction for which the holder of the direct payment permit uses the direct payment permit.

5110 (5) A seller that is presented evidence of a direct payment permit at the time of a

5111 transaction:

5112 (a) notwithstanding Section 59-12-107, may not collect sales and use tax on the
5113 transaction;

5114 (b) shall, for a period of three years from the date the seller files a return with the
5115 commission reporting the transaction, retain records to verify that the transaction was made
5116 using a direct payment permit; and

5117 (c) notwithstanding Section 59-12-107, is not liable for sales and use tax on the
5118 transaction.

5119 (6) The holder of a direct payment permit may calculate the amount the holder of the
5120 direct payment permit may retain under Section 59-12-108 on the amount described in
5121 Subsection (4)(c):

5122 (a) for each transaction for which the holder of the direct payment permit uses the
5123 direct payment permit; and

5124 (b) that the holder of the direct payment permit remits to the commission under this
5125 section.

5126 (7) The commission may revoke a direct payment permit issued under this section at
5127 any time if the holder of the direct payment permit fails to comply with any provision of this
5128 chapter.

5129 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
5130 commission may make rules to administer this section.

5131 Section 10. Section **59-12-301** is amended to read:

5132 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
5133 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

5134 (1) (a) A county legislative body may impose a tax on [~~charges for the~~
5135 ~~accommodations and services described in~~ amounts subject to taxation as short-term lodging
5136 under Subsection 59-12-103(1)(i) at a rate of not to exceed 4.25% beginning on or after
5137 October 1, 2006.

5138 (b) Subject to Subsection (2), the revenues raised from the tax imposed under
5139 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

5140 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
5141 under Part 6, Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax.

5142 (2) If a county legislative body of a county of the first class imposes a tax under this

5143 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
5144 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

5145 (a) deposited into the Transient Room Tax Fund created by Section 63M-1-2203; and
5146 (b) expended as provided in Section 63M-1-2203.

5147 (3) Subject to Subsection (4), a county legislative body:

5148 (a) may increase or decrease the tax authorized under this part; and

5149 (b) shall regulate the tax authorized under this part by ordinance.

5150 (4) (a) For purposes of this Subsection (4):

5151 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, County
5152 Consolidations and Annexations.

5153 (ii) "Annexing area" means an area that is annexed into a county.

5154 (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county
5155 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
5156 change shall take effect:

5157 (A) on the first day of a calendar quarter; and

5158 (B) after a 90-day period beginning on the date the commission receives notice meeting
5159 the requirements of Subsection (4)(b)(ii) from the county.

5160 (ii) The notice described in Subsection (4)(b)(i)(B) shall state:

5161 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

5162 (B) the statutory authority for the tax described in Subsection (4)(b)(ii)(A);

5163 (C) the effective date of the tax described in Subsection (4)(b)(ii)(A); and

5164 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
5165 (4)(b)(ii)(A), the rate of the tax.

5166 (c) (i) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection
5167 (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5168 first billing period:

5169 (A) that begins after the effective date of the enactment of the tax or the tax rate
5170 increase; and

5171 (B) if the billing period for the transaction begins before the effective date of the
5172 enactment of the tax or the tax rate increase imposed under this section.

5173 (ii) Notwithstanding Subsection (4)(b)(i), for a transaction described in Subsection

5174 (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5175 billing period:

5176 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5177 and

5178 (B) if the billing period for the transaction begins before the effective date of the repeal
5179 of the tax or the tax rate decrease imposed under this section.

5180 (iii) Subsections (4)(c)(i) and (ii) apply to transactions subject to a tax under
5181 Subsection 59-12-103(1)(i).

5182 (d) (i) Except as provided in Subsection (4)(e), if, for an annexation that occurs on or
5183 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of
5184 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

5185 (A) on the first day of a calendar quarter; and

5186 (B) after a 90-day period beginning on the date the commission receives notice meeting
5187 the requirements of Subsection (4)(d)(ii) from the county that annexes the annexing area.

5188 (ii) The notice described in Subsection (4)(d)(i)(B) shall state:

5189 (A) that the annexation described in Subsection (4)(d)(i) will result in an enactment,
5190 repeal, or change in the rate of a tax under this part for the annexing area;

5191 (B) the statutory authority for the tax described in Subsection (4)(d)(ii)(A);

5192 (C) the effective date of the tax described in Subsection (4)(d)(ii)(A); and

5193 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
5194 (4)(d)(ii)(A), the rate of the tax.

5195 (e) (i) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
5196 (4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
5197 first billing period:

5198 (A) that begins after the effective date of the enactment of the tax or the tax rate
5199 increase; and

5200 (B) if the billing period for the transaction begins before the effective date of the
5201 enactment of the tax or the tax rate increase imposed under this section.

5202 (ii) Notwithstanding Subsection (4)(d)(i), for a transaction described in Subsection
5203 (4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5204 billing period:

5205 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5206 and

5207 (B) if the billing period for the transaction begins before the effective date of the repeal
5208 of the tax or the tax rate decrease imposed under this section.

5209 (iii) Subsections (4)(e)(i) and (ii) apply to transactions subject to a tax under
5210 Subsection 59-12-103(1)(i).

5211 Section 11. Section **59-12-352** is amended to read:

5212 **59-12-352. Transient room tax authority for municipalities and military**
5213 **installation development authority -- Purposes for which revenues may be used.**

5214 (1) (a) Except as provided in Subsection (5), the governing body of a municipality may
5215 impose a tax of not to exceed 1% on [~~charges for the accommodations and services described~~
5216 ~~in~~] amounts subject to taxation as short-term lodging under Subsection 59-12-103(1)(i).

5217 (b) Subject to Section 63H-1-203, the military installation development authority
5218 created in Section 63H-1-201 may impose a tax under this section [~~for accommodations and~~
5219 ~~services described in~~] on amounts subject to taxation as short-term lodging under Subsection
5220 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority
5221 under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the
5222 authority were a municipality.

5223 (2) Subject to the limitations of Subsection (1), a governing body of a municipality
5224 may, by ordinance, increase or decrease the tax under this part.

5225 (3) A governing body of a municipality shall regulate the tax under this part by
5226 ordinance.

5227 (4) A municipality may use revenues generated by the tax under this part for general
5228 fund purposes.

5229 (5) (a) A municipality may not impose a tax under this section [~~for accommodations~~
5230 ~~and services described in Subsection 59-12-103(1)(i)] on short-term lodging within a project
5231 area described in a project area plan adopted by the authority under Title 63H, Chapter 1,
5232 Military Installation Development Authority Act.~~

5233 (b) Subsection (5)(a) does not apply to the military installation development authority's
5234 imposition of a tax under this section.

5235 Section 12. Section **59-12-353** is amended to read:

5236 **59-12-353. Additional municipal transient room tax to repay bonded or other**
5237 **indebtedness.**

5238 (1) Subject to the limitations of Subsection (2), the governing body of a municipality
5239 may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed
5240 .5% on [~~charges for the accommodations and services described in~~] amounts subject to taxation
5241 as short-term lodging under Subsection 59-12-103(1)(i) if the governing body of the
5242 municipality:

5243 (a) before January 1, 1996, levied and collected a license fee or tax under Section
5244 10-1-203; and

5245 (b) before January 1, 1997, took official action to obligate the municipality in reliance
5246 on the license fees or taxes under Subsection (1)(a)(i) to the payment of debt service on bonds
5247 or other indebtedness, including lease payments under a lease purchase agreement.

5248 (2) The governing body of a municipality may impose the tax under this section until
5249 the sooner of:

5250 (a) the day on which the following have been paid in full:

5251 (i) the debt service on bonds or other indebtedness, including lease payments under a
5252 lease purchase agreement described in Subsection (1) (b); and

5253 (ii) refunding obligations that the municipality incurred as a result of the debt service
5254 on bonds or other indebtedness, including lease payments under a lease purchase agreement
5255 described in Subsection (1) (b); or

5256 (b) 25 years from the day on which the municipality levied the tax under this section.
5257 Section 13. Section **59-12-603** is amended to read:

5258 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
5259 **ordinance required -- Advisory board -- Administration -- Collection -- Administrative**
5260 **charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date --**
5261 **Notice requirements.**

5262 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this
5263 part, impose a tax as follows:

5264 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
5265 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
5266 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor

5267 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

5268 (B) beginning on or after January 1, 1999, a county legislative body of any county
5269 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
5270 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals
5271 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
5272 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
5273 to a repair or an insurance agreement;

5274 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
5275 sales of the following that are sold by a restaurant:

5276 (A) alcoholic beverages;

5277 (B) food and food ingredients; or

5278 (C) prepared food; and

5279 (iii) a county legislative body of a county of the first class may impose a tax of not to
5280 exceed .5% on ~~[charges for the accommodations and services described in]~~ amounts subject to
5281 taxation as short-term lodging under Subsection 59-12-103(1)(i).

5282 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
5283 17-31-5.5.

5284 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
5285 for in Subsections (1)(a)(i) through (iii) may be used for:

5286 (i) financing tourism promotion; and

5287 (ii) the development, operation, and maintenance of:

5288 (A) an airport facility;

5289 (B) a convention facility;

5290 (C) a cultural facility;

5291 (D) a recreation facility; or

5292 (E) a tourist facility.

5293 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
5294 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
5295 marketing and ticketing system designed to:

5296 (i) promote tourism in ski areas within the county by persons that do not reside within
5297 the state; and

5298 (ii) combine the sale of:
5299 (A) ski lift tickets; and
5300 (B) [~~accommodations and services described in Subsection 59-12-103(1)(i)~~] short-term
5301 lodging.

5302 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
5303 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
5304 Government Bonding Act, or a community development and renewal agency under Title 17C,
5305 Chapter 1, Part 5, Agency Bonds, to finance:

- 5306 (a) an airport facility;
- 5307 (b) a convention facility;
- 5308 (c) a cultural facility;
- 5309 (d) a recreation facility; or
- 5310 (e) a tourist facility.

5311 (4) (a) In order to impose the tax under Subsection (1), each county legislative body
5312 shall adopt an ordinance imposing the tax.

5313 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
5314 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
5315 those items and sales described in Subsection (1).

5316 (c) The name of the county as the taxing agency shall be substituted for that of the state
5317 where necessary, and an additional license is not required if one has been or is issued under
5318 Section 59-12-106.

5319 (5) In order to maintain in effect its tax ordinance adopted under this part, each county
5320 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
5321 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
5322 amendments to Part 1, Tax Collection.

5323 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
5324 board in accordance with Section 17-31-8, the county legislative body of the county of the first
5325 class shall create a tax advisory board in accordance with this Subsection (6).

5326 (b) The tax advisory board shall be composed of nine members appointed as follows:

5327 (i) four members shall be appointed by the county legislative body of the county of the
5328 first class as follows:

- 5329 (A) one member shall be a resident of the unincorporated area of the county;
- 5330 (B) two members shall be residents of the incorporated area of the county; and
- 5331 (C) one member shall be a resident of the unincorporated or incorporated area of the
- 5332 county; and
- 5333 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
- 5334 towns within the county of the first class appointed by an organization representing all mayors
- 5335 of cities and towns within the county of the first class.
- 5336 (c) Five members of the tax advisory board constitute a quorum.
- 5337 (d) The county legislative body of the county of the first class shall determine:
- 5338 (i) terms of the members of the tax advisory board;
- 5339 (ii) procedures and requirements for removing a member of the tax advisory board;
- 5340 (iii) voting requirements, except that action of the tax advisory board shall be by at
- 5341 least a majority vote of a quorum of the tax advisory board;
- 5342 (iv) chairs or other officers of the tax advisory board;
- 5343 (v) how meetings are to be called and the frequency of meetings; and
- 5344 (vi) the compensation, if any, of members of the tax advisory board.
- 5345 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
- 5346 body of the county of the first class on the expenditure of revenues collected within the county
- 5347 of the first class from the taxes described in Subsection (1)(a).
- 5348 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
- 5349 shall be administered, collected, and enforced in accordance with:
- 5350 (A) the same procedures used to administer, collect, and enforce the tax under:
- 5351 (I) Part 1, Tax Collection; or
- 5352 (II) Part 2, Local Sales and Use Tax Act; and
- 5353 (B) Chapter 1, General Taxation Policies.
- 5354 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
- 5355 Subsections 59-12-205(2) through (6).
- 5356 (b) Except as provided in Subsection (7)(c):
- 5357 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
- 5358 commission shall distribute the revenues to the county imposing the tax; and
- 5359 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues

5360 according to the distribution formula provided in Subsection (8).

5361 (c) The commission shall retain and deposit an administrative charge in accordance
5362 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

5363 (8) The commission shall distribute the revenues generated by the tax under Subsection
5364 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
5365 following formula:

5366 (a) the commission shall distribute 70% of the revenues based on the percentages
5367 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
5368 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

5369 (b) the commission shall distribute 30% of the revenues based on the percentages
5370 generated by dividing the population of each county collecting a tax under Subsection
5371 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

5372 (9) (a) For purposes of this Subsection (9):

5373 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
5374 County Annexation.

5375 (ii) "Annexing area" means an area that is annexed into a county.

5376 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
5377 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
5378 change shall take effect:

5379 (A) on the first day of a calendar quarter; and

5380 (B) after a 90-day period beginning on the date the commission receives notice meeting
5381 the requirements of Subsection (9)(b)(ii) from the county.

5382 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

5383 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

5384 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

5385 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

5386 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
5387 (9)(b)(ii)(A), the rate of the tax.

5388 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
5389 the first billing period:

5390 (A) that begins after the effective date of the enactment of the tax or the tax rate

5391 increase; and

5392 (B) if the billing period for the transaction begins before the effective date of the
5393 enactment of the tax or the tax rate increase imposed under Subsection (1).

5394 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5395 billing period:

5396 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
5397 and

5398 (B) if the billing period for the transaction begins before the effective date of the repeal
5399 of the tax or the tax rate decrease imposed under Subsection (1).

5400 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
5401 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
5402 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

5403 (A) on the first day of a calendar quarter; and

5404 (B) after a 90-day period beginning on the date the commission receives notice meeting
5405 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

5406 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

5407 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
5408 repeal, or change in the rate of a tax under this part for the annexing area;

5409 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

5410 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

5411 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
5412 (9)(d)(ii)(A), the rate of the tax.

5413 (e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
5414 the first billing period:

5415 (A) that begins after the effective date of the enactment of the tax or the tax rate
5416 increase; and

5417 (B) if the billing period for the transaction begins before the effective date of the
5418 enactment of the tax or the tax rate increase imposed under Subsection (1).

5419 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
5420 billing period:

5421 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

5422 and

5423 (B) if the billing period for the transaction begins before the effective date of the repeal
5424 of the tax or the tax rate decrease imposed under Subsection (1).

5425 Section 14. **Effective date.**

5426 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2013.

5427 (2) The actions affecting Sections 59-12-102 (Effective 07/01/14) and 59-12-103

5428 (Effective 07/01/14) take effect on July 1, 2014.

Legislative Review Note
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